Government of the Netherlands

TeamWork!

Manual for experts on multidisciplinary cooperation against trafficking in human beings for labour exploitation

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Lodewijk Asscher

Foreword

It is with great pleasure that we introduce this manual for experts on multidisciplinary cooperation against trafficking in human beings for labour exploitation. This manual is the result of the project *TeamWork! Strengthening multidisciplinary cooperation against trafficking for labour exploitation*, which was set up in preparation for the Netherlands presidency of the Council of the European Union in the first half of 2016. *TeamWork!* is a joint project with Luxembourg, Slovakia and Malta, which had and will have the presidency in the periods before and after the Netherlands.

All forms of trafficking in human beings (THB) are grave human-rights violations that can cause great harm to victims. Hence they should all be addressed vigorously. THB is a serious, often organised, form of crime that can yield considerable profits to the traffickers at the expense of the victims.

The focus on the subject of multidisciplinary cooperation against THB for labour exploitation was chosen because the fight against it still appears less advanced. For example, as will be further explained in the introduction to the manual, the recent Study on case-law relating to trafficking in human beings for labour exploitation published by the European Commission only found a limited number of cases from the reference period (2009-2013)[1]. Greater efforts therefore need to be made to address the issue.

As organisations encounter THB at different stages in the trafficking process, they can only build a complete picture of the issue when they combine their information. They can then undertake joint or complementary activities against THB for labour exploitation. Law enforcement agencies can investigate and prosecute the traffickers. Other organisations may be able to apply administrative sanctions or to revoke licenses. Cooperation is also necessary to provide victims with tailor-made support and assistance. Next to government agencies, NGOs, trade unions and companies also have important roles regarding these issues, for example regarding the prevention of THB for labour exploitation and the protection of victims. As using a multidisciplinary approach is important when tackling any form of serious and organised crime, it is an overarching theme for the Netherlands EU presidency in the area of Justice and Home Affairs.

We are very grateful for the cooperation with many experts from the member states, Justice and Home Affairs agencies and other organisations. As a result of their contributions, the manual is full of useful suggestions and advice and contains more than 80 examples of cases and working practices. They serve to illustrate the benefits of multidisciplinary cooperation against THB for labour exploitation and the many kinds of organisations that can play a role in that cooperation. We sincerely hope that this collection of knowledge and experience from all over the EU will contribute to the further development of multidisciplinary and cross-border cooperation against THB for labour exploitation within and between the EU member states.

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1 European Commission 2015b.

Acknowledgements

This manual was drawn up by the Ministry of Security and Justice and the Ministry of Social Affairs and Employment of the Netherlands in cooperation with Luxembourg, the Slovak Republic and Malta within the framework of project TeamWork!. The project served as a follow-up to the conference Putting Rantsev into Practice (held in Amsterdam in April 2013) and the handbook of best practices drawn up subsequently [2], which both focused on multidisciplinary cooperation against THB in general. Just like with Putting Rantsev into Practice, the intention was to involve experts from the EU member states as much as possible in this project, in order to make a comprehensive, practical and useful manual for organisations across the EU.

The aim was to collect input for the manual from experts from about a dozen different kinds of organisations. To that end, five workshops were organised for experts from member states, NGOs, JHA agencies and other organisations and questionnaires were distributed. Other colleagues were contacted directly with requests for examples to include in the manual. We would like to extend our sincere gratitude to everyone who has helped us with texts and ideas for the manual. Thanks to the efforts of all colleagues who were prepared to share their cases and practices and to comment on draft versions of the manual, it contains knowledge and expertise on THB for labour exploitation from all over the European Union. The manual would not have been possible without their help.

Thanks everyone! ;-)

Colophon

The organisation of the workshops, distribution of the questionnaires and compilation of the input collected into texts for the manual were carried out by the organisations represented in the Organising Committee of project TeamWork!:

- the Public Prosecution Service (OM),
- the National Police,
- the Inspectorate SZW,
- the Immigration and Naturalisation Service (IND),
- the Royal Netherlands Marechaussee (KMar),
- the City of Amsterdam,
- the Expertise Centre on Human Trafficking and People Smuggling (EMM),
- Fairwork,
- CoMensha,
- the Netherlands Trade Union Confederation (FNV),
- the Ministry of Foreign Affairs (including the Netherlands embassies in the Philippines and Romania),
- the Ministry of Social Affairs and Employment,
- the Ministry of Security and Justice

and others.

The Bureau of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children participated in the Organising Committee in an advisory capacity.

The handbook was edited by:
Jeroen de Jager (Ministry of Security and Justice), Nassira Hassani (Ministry of Social Affairs and Employment) and Evelien Pennings (Ministry of Security and Justice).

[2] Ministry of Security and Justice 2013.

Aim of this manual

This manual is aimed at experts and intended to help inspire and strengthen the policy and practice to address trafficking in human beings (THB) for labour exploitation of all organisations that could come across it. More specifically, it aims to stimulate multidisciplinary and cross-border cooperation and a comprehensive approach against this phenomenon. It was drawn up as part of a project called TeamWork!, which was started by four consecutive presidencies of the Council of the European Union (EU): Luxembourg, the Netherlands, the Slovak Republic and Malta. Because of this, the manual mainly focuses on strengthening cooperation among and within EU countries, but it also contains advice on cooperation with third countries.

Although this manual concerns THB for labour exploitation, many of the suggestions included could also be relevant to other forms of exploitation, including sexual exploitation. In some cases, for example where it is suggested to organise regular meetings, create units or set up systems, it may make the most sense if these meetings, units and systems are dedicated to all forms of exploitation, not just to labour exploitation. However, the text only refers to THB for labour exploitation.

This manual is not intended to prescribe how member states 'should' respond to trafficking, but rather to provide advice and inspiration. Individual responses may need to be tailored to the national, regional or local context, as well as the specifics of the crime problem in question. The mandate of organisations differs from one member state to the next. Sometimes a task or activity described in the paragraph of organisation A is assigned to organisation B in another country. Some tasks or activities may not be formally assigned to a specific organisation (yet) or may not exist in some countries. An attempt has been made to include all suggestions in the paragraph of the organisation that is most likely to have been assigned the task or responsibility in most member states.

Finally, this manual is **not** a scientific document: it is not based on research, but on the collection of knowledge and experience of experts from EU member states during workshops and through questionnaires. This means that the advice contained in this manual is not based on scientific facts, but on observations of experts working in the field and on the (still limited) information held by some organisations.

How to use this manual

This manual contains three categories of information: 1) information that is relevant to many if not most types of organisations (i.e. general information); 2) information about multidisciplinary (and cross-border) cooperation between organisations and 3) information that is relevant to one specific type of organisation. Twelve kinds of organisations are referred to in this manual. Where possible, the information in the manual has therefore been included in one of the following 14 **standard paragraphs**. These paragraphs have all been given their own colour:

- General information
- Multidisciplinary and cross-border cooperation
- The role of police forces and other criminal investigation services
- The role of prosecution services
- The role of labour, social, health and other inspectorates
- The role of border forces
- The role of immigration services
- The role of local governments (municipalities) and / or regional governments
- The role of tax authorities
- The role of NGOs
- The role of companies
- The role of trade unions
- The role of ministries and embassies
- The role of judges

The colours are intended to help you quickly recognise the information about e.g. labour and other inspectorates or about trade unions.

The table of contents lists the six chapters of the manual and all paragraphs that are different from the standard paragraphs mentioned above. On the next page, you will find a reading guide to indicate which kind of standard paragraph is included in which chapter. The reading guide for example shows that the manual contains ten paragraphs about multidisciplinary cooperation and six about border forces. If there is no paragraph dedicated to your organisation in a chapter, the chapter could still include information that is of use to you: the paragraphs with general information or information about multidisciplinary cooperation are relevant to many if not most types of organisations, so they may be worth examining.

When you are looking for information on a specific subject that is relevant for your organisation:

1. Check the **table of contents** to see in which chapter (or paragraph) this subject is covered;
2. Then check the **reading guide** to see if this chapter contains:
   - a paragraph with general information;
   - a paragraph with multidisciplinary information and/or
   - a paragraph dedicated to your organisation.

   All three of these paragraphs could comprise suggestions, advice and examples that are applicable to your work.
3. Remember which **colours** the relevant paragraphs have and leaf through the specific chapter whilst looking for those colours.

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A speech balloon indicates an example.

Glossary of terms

Asylum seeker
A person who seeks safety from persecution or serious harm in a country other than his or her own and awaits a decision on the application for refugee status under relevant international and national instruments.

Case of THB for labour exploitation
For the purpose of this manual, a case of THB for labour exploitation refers to an instance of THB for labour exploitation involving one or more suspects and one or more possible victims that could be the subject of, for example, an inspection, investigation and / or prosecution. “Case” can also refer to the inspection, investigation or prosecution itself.

Employment agency
See Recruitment agency.

Migrant smuggling
Intentionally assisting a person who is not a national of a member state to enter, transit across or reside in the territory of a member state in breach of the laws of the State concerned on the entry or transit of aliens. However, EU States may decide not to impose sanctions on those assisting unauthorized entry or transit for humanitarian reasons[3].

Indicators (of THB for labour exploitation)
For the purposes of this manual, indicators are theoretical points of reference that have been compiled to help officials or citizens identify signs of THB for labour exploitation in practice.

Irregular migrant
A migrant without a residence permit.

Labour exploitation
For the purposes of this manual, labour exploitation shall include forced labour or services and (domestic) servitude. It shall not include the exploitation of forced begging or criminal activities, although it is recognised that there may be some overlap between THB for exploitation in the illicit and licit labour markets.

(Labour) inspectorate / inspector
Member states have different types of inspectorates that could play a role in addressing THB for labour exploitation, such as labour inspectorates, social inspectorates, health and safety inspectorates or fisheries inspectorates. Whenever this text talks about (labour) inspectorates / inspectors, this may refer to any of these types of inspectorates / inspectors.

[3] See EU Council Directive 2002 / 90 / EC defining the facilitation of unauthorised entry, transit and residence.

Police / criminal investigation service
Responsibility for criminal investigations into THB for labour exploitation may rest with different criminal investigation services. It can vary from country to country and within countries, with some services being responsible for specific aspects of and some for the whole process of investigation. In many countries, it is the police, but in some, labour inspectorates also have the authority to carry out criminal investigations. In addition, border guards, immigration services or fiscal investigation services (tax authorities) could have powers to carry out (parts of) the investigations into THB for labour exploitation. In this manual, where the terms "police" and "criminal investigation service" are used, they are to be understood to refer to any of these types of criminal investigation services. They also fall under the broader term of Law Enforcement Agency (LEA).

Recruitment agency / Employment agency
A recruitment or employment agency is an intermediary. It mediates between a business that needs one or more workers and the worker(s) looking for work. It is not responsible for paying a work-seeker after the worker has been introduced to a business. These agencies come in different sizes: they could even consist of just one person with a mobile phone running recruitment services from home. Recruitment agency and employment agency are taken to mean the same thing and are both used in this text.

Signs (of THB for labour exploitation)
For the purposes of this manual, signs of THB for labour exploitation are things that professionals or citizens may observe in the course of their work or daily life (based on theoretical indicators) that may suggest that THB for labour exploitation is taking place.

Victim
When the word "victim" is used in this manual, it refers to a victim of THB for labour exploitation.

Abbreviations

EMPACT	European Multidisciplinary Platform against Criminal Threats
EU	European Union
FP	Focal Point
ILO	International Labour Organisation
ILOs	Immigration Liaison Officers
IOM	International Organisation for Migration
LEA	Law Enforcement Agency
MFA	Ministry of Foreign Affairs
MLA	Mutual Legal Assistance
MS	Member State
NGO	Non-Governmental Organisation
NREM	National Rapporteur or Equivalent Mechanism
NRM	National Referral Mechanism
OAP	Operational Action Plan (of an EMPACT-project)
SOCTA	Serious and Organised Crime Threat Assessment (drawn up by Europol)
THB	Trafficking in Human Beings
TRM	Transnational Referral Mechanism

Introduction

Trafficking in human beings (THB) is a hideous crime. It is both a violation of human rights and the victim's personal integrity and a serious, often organised, crime that undermines the state and the rule of law. In many countries, the fight against THB for labour exploitation still seems less advanced than that against THB for sexual exploitation. This is illustrated by the fact that the recent Study on case-law relating to trafficking in human beings for labour exploitation published by the European Commission only found a limited number of cases from the reference period (2009 - 2013)[4]. In 11 member states (MS) less than 6 cases per MS were identified from this period; in 6 MS no case-law was identified at all[5]. This despite the fact that victims of THB for labour exploitation also find themselves in abhorrent circumstances, working very long hours for a pittance or no pay at all, living in appalling conditions, facing threats or even violence, and so on. The Eurostat working papers of 2013 and 2014[6] seem to suggest that the number of presumed and identified victims of THB for labour exploitation in the MS is increasing[7]. While this may be partly due to better reporting[8], it may also reflect improvements in the identification of cases because of growing awareness that THB for labour exploitation is a problem that deserves serious attention. More information on the Eurostat statistics is included in Annex 2.

Whether statistics like those in the Eurostat working papers represent the real situation is difficult to say, due to the hidden nature of trafficking in human beings. Whereas THB for sexual exploitation generally requires publicity to attract customers, THB for labour exploitation may be harder to detect as many victims of THB for labour exploitation work hidden from public view. For example, victims may be confined to hidden locations when working in agriculture, factories or domestic work.

Victims of THB for labour exploitation need to be given the chance to leave the trafficking situation behind and to regain control of their own lives. The traffickers who put them through this ordeal should be prosecuted and convicted and measures should be put in place to prevent more people from becoming victims of THB for labour exploitation. In order to achieve this, more effort needs to be devoted to tackling THB for labour exploitation. Since most victims of THB in general identified within the European Union are EU-citizens[9] and cases of THB for labour exploitation regularly involve several MS, cooperation at the EU-level is essential.

Legislation on trafficking in human beings for labour exploitation

On 15 April 2011 the new EU Directive on preventing and combating trafficking in human beings and protecting its victims (2011/36/EU)[10] was adopted. Article 2 of the Directive defines trafficking in human beings as:

"1. The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or

[4] European Commission 2015b.

[5] The study suggests these low numbers could be due to either a low level of prosecution or difficulties in accessing case-law; see European Commission 2015b.

[6] Eurostat 2013 and Eurostat 2014.

[7] See Annex 2.

[8] In 2012 more member states were able to provide this data than in 2008 (26 states compared with 16); see Eurostat 2013 and Eurostat 2014.

[9] 65% in 2010 - 2012; see Eurostat 2014.

[10] EU Directive 2011/36/EU. The Directive replaced an earlier Council Framework Decision (2002/629/JHA) on the same subject.

of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
[...]
3. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including forced begging, slavery or practices similar to slavery, servitude or the exploitation of criminal activities, or the removal of organs".

Based on this definition, for the purposes of this manual labour exploitation has been defined to include forced labour or services and (domestic) servitude.

As article 2 shows, trafficking in human beings consists of three components:
- an action;
- a means; and
- a purpose.

However, when the victim is a child, paragraph 5 of article 2 of the Directive determines that it is trafficking in human beings even if none of the means mentioned in paragraph 1 have been used.

In the "Practical Tool for First level identification of victims of human trafficking for labour exploitation"[11] the actions, means and purposes included in the definition of the EU directive are summarised as follows:

ACTION	MEANS	PURPOSES
— Recruitment — Transportation — Transfer — Harbouring — Reception of persons, — Exchange or transfer of control over those persons	— Threat — Use of force — Other forms of coercion — Abduction — Fraud — Deception — Abuse of power or of a position of vulnerability — Giving or receiving of payments or benefits to achieve the consent of a person having control over another person	— Exploitation of the prostitution of others or other forms of sexual exploitation — Forced labour or services,including begging — Slavery or practices similar to slavery — Servitude — Exploitation of criminal activities — The removal of organs

Criminal law is often the first thing that comes to mind when discussing ways to address THB for labour exploitation. However, next to criminal law, labour and social law, fiscal law, migration law and administrative law may also be relevant for organisations involved in counteracting THB for labour exploitation. This means that there are several other instruments available to tackle THB for labour exploitation besides prosecution. Having more options is especially helpful since there is a continuum of poor working conditions; the line between bad employment practices and THB for labour exploitation is not always clear. Where relevant, the following chapters will therefore also refer to EU legislation, national legislation or national powers in the areas of labour and social law, fiscal law, migration law and administrative law.

Annex 3 contains a brief overview of international and EU legislation on THB for labour exploitation.

[11] EuroTrafGuID 2013.

The phenomenon of THB for labour exploitation

THB for labour exploitation takes place when workers are, inter alia, recruited, transported or housed, by means of a form of coercion (such as threats, the use of force or the abuse of a position of vulnerability), with the purpose of exploitation. In child trafficking cases, the means are not relevant. The exploitation can take the form of forced labour (including domestic servitude) or forced services[12]. Labour exploitation can take place within organised sectors of the economy (such as agriculture, fishery, construction, transport and catering). However, it can also take place in other sectors such as domestic work or care, or take the form of being forced to play music on the street, to work as a "living statue" or to sell a homeless newspaper.

Based on the experience of the experts who were involved in this manual, victims of THB for labour exploitation are often deceived, misled and made dependent on their employers (traffickers) in multiple ways. They have no real or acceptable alternative but to submit to the exploitation and / or may not experience it as exploitation. Some victims may be willing to accept the exploitation, after the effort it took to reach the EU and their need to obtain some level of success before returning. Victims might be dependent on their traffickers for work, food and housing (with no freedom to choose an alternative), because their passports have been taken, because they have debts (for example because of high charges for travel or housing) or because they do not speak the language. This may give the traffickers great control over the victims. Victims might be related to the trafficker or the trafficker's family. Traffickers abuse the vulnerability of workers to exploit them, for example by forcing them to work very long hours against little or no pay, to live in cramped and dirty housing, to carry out dangerous work without protection, and so on.

Different kinds of THB for labour exploitation may affect men, women and children differently. In many sectors that are widely understood to be at risk of THB for labour exploitation, such as construction and transport, the workforce is predominantly male. This also means that the victims that are found in these sectors are mostly male. In other sectors, such as agriculture, both male and female victims can be found. In more isolated professions, for example as domestic worker or au pair, the work is often done by women, although men also work in isolated professions like domestic work or gardening. In these types of sectors, where workers have very little or no contact with the outside world, it may be less likely that victims are able to ask for help or that the authorities will come across these cases. These forms of exploitation are more hidden than usual and authorities will need to devote special attention to them to make sure that these victims are not forgotten. Finally, children often seem to fall victim to forced services, such as begging or selling homeless newspapers. These may be combined with forced criminality, such as picking pockets or shoplifting. This may be the case because children typically cannot legally work in the other sectors discussed. Because of these differences, authorities may need to employ different strategies to be able to reach victims in different sectors.

THB for labour exploitation is often just one of the forms of crime occurring in a case. Some countries see cases that are a combination of labour and sexual exploitation. In other cases, traffickers not only exploit the victims, but also claim benefits on their behalf. Cases of THB for labour exploitation may also be linked to smuggling of migrants[13]. Being smuggled and thereby becoming an irregular migrant can make these people vulnerable to THB for labour exploitation, especially if they have incurred debts because of the smuggling. Migrant smuggling can also be the first stage of THB for labour exploitation, for example when the smugglers are also the traffickers who intend to exploit the migrants. However, it is important to remember that since about two-thirds of registered victims of THB in the EU are EU citizens[14], there is no need for smuggling in these cases. Also, as crossing a border is not a necessary part of THB, victims of

[12] It is important to point out that there is no consensus on what constitutes labour and therefore on what constitutes THB for labour exploitation. In some countries forms of exploitation such as domestic servitude, forced begging and / or forced criminality are included under labour exploitation, in others they are not. For the purposes of this manual, labour exploitation shall include forced labour or services and (domestic) servitude. It shall not include the exploitation of criminal activities and forced begging.

[13] A definition of migrant smuggling has been included in the Glossary of Terms.

[14] Eurostat 2013 and Eurostat 2014.

THB for labour exploitation can also be nationals of the country in which the exploitation takes place. So, even though they may be linked in some cases, smuggling of migrants and THB for labour exploitation are two different crimes that should not be confused.

Trends regarding THB for labour exploitation

Based on the information that member states have contributed to Europol's databases[15], Europol identifies the following trends regarding THB for labour exploitation (please be aware that not all of these may apply to all member states):

- Victims may be recruited within their country of origin by their own nationals using ethnic kinship and even family ties,
- The use of deception is a common feature in the recruitment process. Victims may be lured through newspapers, word of mouth, fraudulent recruitment agencies and online adverts posted on job-related websites and social media,
- Trafficked workers may use legal documents to enter the country and may have legal permits which expire with time,
- Victims' ID documents / passports may be taken away by traffickers under false explanations of arranging formalities such as social insurances, bank accounts and work permits. This may be done to limit their movements and prevent them from requesting support from the police, embassies or consulates,
- Standard features of THB for labour exploitation may be extremely long hours against a very small or no salary, limited nutrition – with the costs sometimes deducted from their salary – and poor health conditions; sometimes, no employment has been arranged upon their arrival,
- Victims may be subjected to verbal manipulation, psychological pressure and threats of expulsion from the EU,
- In the EU, private businesses may be responsible for the majority of exploitative situations,
- The use of legal business structures (LBS) may be common for both recruitment (e.g. false job agencies) and exploitation purposes (e.g. bogus companies, bank accounts),
- A sophisticated level of organisation may be involved, especially in cases of non-EU victims, who are not only required to travel long distance via sea (sometimes victims are concealed in containers of cargo ships), air and land, but also need residence and work permits once they arrive in the EU,
- Victims may pay the costs for transportation and for being able to work in the host country,
- Additional fees and deductions may be applied on their scarce wages and presented as if they are compulsory, placing the exploited workers in further debt and a more precarious state of dependence from which it may be very hard to escape,
- The proceeds of crime may be significant, taking into consideration that often, the suspects combine their gain from the labour or sexual exploitation with benefit fraud using the identities of the victims; they may also open and control bank accounts under their victims' names.

People vulnerable to THB for labour exploitation

Trafficking in human beings for the purpose of labour exploitation is a global phenomenon that can affect every region, country and economic sector. However, based on the experience of the experts who were involved in this manual, there are certain categories of people that may be more vulnerable to that phenomenon than others. Workers may be vulnerable to THB for labour exploitation when they:

- are not well educated,
- have learning difficulties,
- do not speak the language of the country of destination,
- live in poverty or in a region with a high rate of unemployment and lack of opportunities, have difficult family circumstances or a family that depends on their financial support,
- lack a social network,
- have debts,
- are homeless,

[15] Not all information from all criminal investigations into THB for labour exploitation are shared with Europol, so these trends only reflect a portion of the law enforcement information on this topic available. Also, these trends are not based on research.

- are made to feel like they are not valued,
- are emotionally unstable or physically disabled,
- are not aware of their (labour) rights and / or have been given false information,
- are not aware of the cost of living in destination country,
- want to comply with cultural expectations or have family ties to the traffickers,
- are uncertain about their future because they are awaiting a decision on an asylum application; asylum seekers that are not allowed to work, may be tempted to accept work under unfavourable conditions,
- do not trust the authorities and are in the country illegally; the traffickers may threaten them with informing the authorities,
- depend on their employer for their residence status,
- work in isolation,
- are addicted or made addicted by the traffickers.

Although these things are thought to be risk factors, it is not known if and to what extent they are able to predict who will become a victim and who will not.

According to Europol the majority of victims of THB for labour exploitation detected in EU member states' investigations in 2014 were male EU nationals from Poland, Bulgaria, Romania, Slovakia, the Czech Republic and Estonia[16].

Risk sectors for THB for labour exploitation

Some industries are thought to be risk sectors for THB for labour exploitation. Risk assessments may be used to identify economic sectors where THB for labour exploitation may be likely to take place. Below is a non-exhaustive list of sectors in which THB for labour exploitation is presently thought to be a problem in many member states.

- Agriculture and horticulture (which often involve seasonal work), for example the fruit sector
- Food Factories, for example food processing or packaging
- Construction, including of roads
- Domestic work and care, including work as an au pair
- Hospitality service, hotel, (ethnic) restaurants, catering, bars
- Cleaning industry
- Retail and manufacturing, during the whole supply chain
- Transportation sector, including car washes
- Shipping, including inland shipping and fishery

EXAMPLE

Exploitation of Vietnamese workers in a clothing factory in Malta

In Malta, the Managing Director and Marketing Director of a Chinese company have been charged with, among other things, trafficking in human beings of nine Vietnamese workers for the purposes of labour exploitation. The Vietnamese workers were promised € 600,- a month. However, they had to pay half of this for housing and food. In addition, the company kept their passports and € 150,- a month to make sure the workers would not leave. The victims were living in very cramped conditions, with no proper sheets on their beds, only one roll of toilet paper a month and the shower being the only place they could hang their laundry. The gate was closed in the evening, which meant that the workers could not leave. The workers were told they would be sent back to Vietnam if they complained.

[16] Since this only refers to information shared with Europol, it may not reflect the complete picture of investigations in the members states.

The workers were given two contracts: they were first shown a contract in Vietnamese for a salary of € 685,-, but were made to sign another contract in both Vietnamese and Chinese for a lower salary, between € 350,- and € 500,-, at the last moment. The authorities (the Employment and Training Corporation (ETC)) were given a false contract, since the actual contract did not comply with the law. The police discovered that the company did not have enough money in its accounts to pay all the salaries at once.

Partners involved in the cooperation and their roles:

- The Vice Squad Police started gathering intelligence and investigating the case following a report from an NGO. Victims were formally identified by the Police. At that point there was enough evidence to take the case to court to charge the alleged perpetrators. The Vice Squad Police also provided interpreters for the victims and the alleged perpetrators. The Police requested assistance from Appogg (the Agency for Social Welfare Services) and JRS to be present and give support to the victims while being interviewed and during the Court hearings.
- Appogg provided emergency shelter and accommodation, clothing and culturally appropriate food; linked up with medical services for the provision of medical assessments and treatment; liaised with Immigration Police and Visa Department with regards to residence permits and visas, as well as with the Employment and Training Corporation regarding the possibility of new employment for victims. Appogg also collaborated closely with the Jesuit Refugee Services, who provide legal services and support during the court proceedings.

What makes this case successful:

Networking between stakeholders working in the field of THB made this case successful. Stakeholders in Malta meet to undertake training on THB together. The drawing up of a National Referral Mechanism and Standard Operating Procedures also contribute in enhancing efforts towards working as a team when a new case is encountered.

Chapter 1
Multidisciplinary cooperation and exchange of information on THB for labour exploitation at the national level

Introduction

An effective fight against THB for labour exploitation requires a multidisciplinary, integrated approach at the national level and in cross-border cases, since THB for labour exploitation is a complex issue and does not necessarily stop at the border. It is widely agreed by the experts involved in drafting this manual that multidisciplinary cooperation has added value in most, possibly all, cases of THB for labour exploitation. Multidisciplinary cooperation means that a wide range of powers is available to counteract THB for labour exploitation. In each case of THB for labour exploitation, the organisations involved can decide together (where appropriate in consultation with the victim) what will be the most efficient and effective way to tackle it. By working together in an integrated way with all relevant organisations, the amount of available intelligence and information may well increase, meaning that a more complete picture can be built of the scale and nature of the problem. Combining the knowledge and information from several organisations may mean that cases of THB for labour exploitation can be identified quicker and that the evidence against the traffickers is more complete. For the victim it may mean leaving the exploitative situation sooner, and getting earlier access to post-trafficking support. Such cooperation may involve not just those organisations for whom addressing THB for labour exploitation is one of their main duties. Many organisations have responsibilities of a different nature, that nonetheless may bring them into contact with possible signs of THB for labour exploitation.

When working together, the organisations involved need to accept the fact that different organisations have different roles, responsibilities and organisational cultures. But while differences may make cooperation challenging, these same differences also have the advantage that they can be used to complement each other. An example of how organisations with different competences may complement each other is that labour inspectorates are often able to enter premises without a warrant, whereas the police need to have a warrant. Similarly, in most countries the police have investigative powers that labour inspectorates do not have. By working together in an integrated way, they may be able to do much more than they are able to achieve on their own.

It is not possible to counteract THB for labour exploitation with investigations and prosecutions alone. Therefore, in addition to criminal law, administrative, labour, fiscal or human rights law can be employed, for example if there is not enough evidence to prove THB for labour exploitation or if another field of law is more appropriate to the specificities of the exploitation. It may also be useful to include all levels of government when addressing THB for labour exploitation: not just the national government, but also regional and local governments, depending of course on their authority and responsibilities. Municipalities may for example have administrative instruments at their disposal that can make it more difficult for criminals to commit THB for labour exploitation.

Prevention is also key. Effective regulation of labour supply and worker rights can deter criminal enterprises from entering the labour supply chain. This is also where the support of businesses and other private organisations is important, to enable them to work with the relevant authorities to identify and tackle THB for labour exploitation. For example, supermarkets can help tackle exploitation in agriculture by insisting on clean, trafficking-free supply chains for the food that they sell.

The need for multidisciplinary and cross-border cooperation was underlined in the Rantsev decision of the European Court of Human Rights[17]. In this decision, the Court stated that member states have a number of positive obligations when it comes to counteracting trafficking in human beings. Member states need to put in place a comprehensive approach against THB that goes beyond investigation and prosecution and includes prevention of trafficking and protection of victims. This approach should be based on human rights and put victims at the centre. States also have an obligation to cooperate effectively with the relevant authorities in other states in THB investigations, in order to ensure a comprehensive international approach in countries of origin, transit and destination.

1.1 National structures to coordinate multidisciplinary cooperation against THB for labour exploitation

1.1.1 General information

In order for multidisciplinary cooperation against THB for labour exploitation to be effective, some form of coordination is needed. In order to coordinate efforts at the national level, the relevant organisations could:

- **Use or strengthen a multidisciplinary task force or working group:** To coordinate the way cases of THB for labour exploitation are handled, member states could consider setting up or strengthening a multidisciplinary task force or working group[18] that meets on a regular basis and consists of representatives of all relevant organisations. Multidisciplinary groups can be used either for policy purposes or to deal with actual cases of THB for labour exploitation, or both. Meetings with multidisciplinary participants could lead to cross-pollination and the development of new and innovative ideas. Depending on the size of the country and the way it is organised, multidisciplinary groups could meet at the national, regional or even local level. They could be chaired by a (national, regional or local) coordinator or the relevant coordinating body.

EXAMPLE

Periodic coordination meetings in Belgium

In Belgium, there are periodic coordination meetings of all actors involved in the fight against human trafficking in each judicial district. At least two such meetings are organised each year on the initiative of the prosecutor specialised in THB matters. The aim of these meetings is to:

- discuss new phenomena,
- select priority sectors and targets,
- discuss investigation strategies and techniques,
- exchange information and
- evaluate and prepare multidisciplinary actions (feedback!).

Partners involved in the cooperation and their roles

These meetings are organised and chaired by the key prosecutor for THB cases and attended by Police (specialised trafficking units), Social Inspectorate (specialised units ECOSOC) and Labour Inspectorate. Besides, the prosecutor can invite any experts to these meetings who can make a relevant contribution to investigations or prosecutions (e.g. the Aliens Office, Tax service, shelters, and so on).

[17] European Court of Human Rights, Rantsev v. Cyprus and Russia, Application no. 25965/04, Strasbourg.

[18] Every member state will have its own name for this.

What makes this practice successful?
These regular meetings create a network which facilitates the exchange of information at the local level, the mapping of high-risk sectors and workplaces and smooth co-operation. Partners get to know and trust each other and become aware of each other's powers and priorities, and that way any thresholds to work together are lowered.

- **Create subgroups or joint teams for specific problems:** When a specific issue is identified or a new trend is discovered, the multidisciplinary group may decide to form
  - a (temporary or permanent) subgroup with the most relevant organisations to develop a policy to tackle the issue or
  - a joint team to handle the new type of cases, if necessary for a set period of time. This team can then develop a standardised joint approach to these cases. After the set time period has passed, a decision can be taken on whether the team needs to continue its activities.
- **Choose the most effective approach in each case:** Since the organisations participating in a multidisciplinary group all have different competences and capabilities, it could have a range of options to choose from when dealing with cases of THB for labour exploitation, including powers under criminal, labour, fiscal and administrative law. The group could discuss which organisations are in the best position to tackle the cases that have been identified, agree on ways to cooperate on these cases, discuss the progress made and share information on new trends and new cases. Participation by NGOs or organisations that provide care and assistance will allow the group to take decisions that take into account both the perspective of law enforcement and that of the victim. For example, since the line between bad employment practices and THB for labour exploitation is not always clear, the group could decide on a case-by-case basis, and where possible in consultation with the victim, whether to tackle the situation through labour law or criminal law.
- **Become familiar with each other's responsibilities, competences and approach:** In order to be able to cooperate, organisations need to know what their partners' goals are, what they are able to do and how they carry out their work.
- **Invest in structure, personal contacts and transparency:** In order for multidisciplinary cooperation against THB for labour exploitation to be successful, three things are important:
  - **Good personal contacts are essential.** Differences in culture and working methods between organisations can make cooperation difficult. By meeting in person and getting to know each other, officials from different organisations can build up trust and find a common purpose.
  - **Cooperation cannot depend on the efforts of just one person.** If that person leaves or is given other responsibilities, all the experience and knowledge built up will be lost and the cooperation could be in danger. The cooperation therefore needs to be embedded in some kind of structure or formalised in some way (e.g. through a Memorandum of Understanding (MoU)), so that the roles of the organisations involved are clearly defined and the legal basis for any information exchange is established.
  - **Be prepared to discuss what works well and what does not.** Organisations need to be able to discuss not only the goals they share but also where their goals diverge, to evaluate their cooperation and to discuss steps to further improve it.
- **Look beyond their mandate:** Organisations, both those directly involved in counteracting THB for labour exploitation and others, could consider looking beyond their own mandate. They could look at certain situations through not just their own eyes, but also the eyes of their partners, so that they can provide them with useful intelligence from their perspective about suspicious situations that might be worth a second look.

EXAMPLE

It is not the responsibility of the fire brigade to fight THB for labour exploitation. However, since they are often tasked with inspecting the fire prevention measures in business premises, it could be worthwhile to ask them to also look at the situation through the eyes of a labour inspector or detective. This could result in possible signs of THB, for example mattresses on the floor of a restaurant kitchen, being reported that might otherwise have been missed.

Although some organisations (e.g. inspectorates) are not empowered to consider exploitation in all industries, their experience may nonetheless be of great value to organisations in industries outside their remit, for example when it comes to raising the awareness of the specific industry to the indicators of forced labour.

- **Try out innovative ways of working together:** In order to experiment with multidisciplinary cooperation, organisations could establish a pilot project to see if the intended approach works, needs to be adjusted or can be dismissed. If the pilot is successful, the new method may be included in the normal way of working.
- **Exchange expertise:** Organisations can help each other with the expertise they have.

EXAMPLE

Government agencies sometimes have difficulty communicating with the victim. NGOs could provide these authorities with their expertise on the victim perspective, in order to ensure the trafficking case furthers the victim's interests.

EXAMPLE

The police may not know what constitutes a breach of labour law, what sanctions exist for such breaches, how they may be used to support criminal investigations and as a tool to disrupt criminal enterprises. The labour inspectorate could provide the police with their expertise on labour law and demonstrate how deceptive recruitment practices and fees charged for things such as recruitment and accommodation can be used to bond workers into a situation of THB for labour exploitation. This may help the police build a trafficking case.

- **Attend multidisciplinary events and trainings:** Aside from exchanging expertise when dealing with specific cases of THB for labour exploitation, different organisations may also ensure their personnel attends the same trainings and events on THB for labour exploitation, in order to ensure they exchange expertise on a more regular basis.
- **Carry out joint or consecutive inspections or visits:** A joint inspection or visit could ensure that the activities of the company visited are looked at from several perspectives, such as labour law, health and safety, migration law and so on. In planning such cooperation it is important to consider what competences each organisation has, and whether they enable joint visits to be made. Where they do not, the planning of such cooperation should consider the sequence in which organisations may need

to contact or visit suspect individuals in order to ensure that evidence is lawfully obtained and can be passed lawfully to partner organisations, to ensure its admissibility in any legal proceedings.

EXAMPLE

Joint Inspections, Latvia

In Latvia, the police, Border Guard, the Office of Citizenship and Migration Affairs, and the Labour Inspectorate carry out joint inspections. As described in the CBSS report "Actors against Trafficking for Labour Exploitation", the aim of these inspections is to examine the legal status of foreign employees, to detect irregular migrants and to detect potential victims of trafficking[19].

- **Cooperate with trade unions and employers in a structured way:** In order to tackle cases of THB for labour exploitation successfully, cooperation between organisations such as the police and the labour inspectorate on the one hand and employers' organisations and trade unions on the other needs to be given a structural footing.
- **Cooperate with NGOs in a structured way:** the authorities and NGOs need each other to fight THB for labour exploitation. Authorities have competences to restore the rights of victims and NGOs have easier access to (potential) victims and may have their trust more readily. NGOs are often the first that potential victims turn to, since they tend to be afraid of state authorities. Authorities (at the local, regional and national level) and NGOs can therefore help each other to help the victims.

EXAMPLE

Voivodship Teams, Poland

In 2010 the Mazovian Unit against Trafficking in Human Beings was appointed in Warsaw. It was the first and the only regional (voivodship) unit in Poland. The Mazovian Unit is set up as a regional platform for exchange of information and cooperation between institutions and organisations involved in counteracting trafficking in human beings. The unit aims to improve the organisation of preventive activities, support and reintegration of victims (in particular Polish citizens) and trigger the activity of local governments and non-governmental organisations in this regard. Apart from that, it also acted as a pilot project in developing regional forms of cooperation in other regions of Poland. One of the major tasks under the National Action Plan against Trafficking in Human Beings for 2013 - 2015 was to initiate more voivodship units against trafficking in human beings in Poland. So far, 14 out of 16 voivodship units have been created. The final two are expected to be appointed by the end of 2015. In each unit a THB coordinator has been appointed. This THB coordinator has been obliged to identify partners from various regional stakeholders (local and municipal administration, NGOs, Law Enforcement Agencies (LEAs) etc).

Partners involved in the cooperation:
The units comprise representatives of regional police and border guard forces, local NGOs, regional social assistance units, academic entities, the labour inspectorates, as well as the municipal authorities. The main role of LEAs participating in the units is to provide updated information about the trends and risks related to the crime of THB in the region, as well as to identify and refer the victims to the regional assistance centres for victims. The rest of the participants are mainly engaged either in preventive activities or in supporting the victims.

[19] CBSS 2013.

What makes this practice successful:
The voivodship units are regional platforms for exchanging local information mainly about preventing and combating the crime of THB. Thanks to the unit, the local stakeholders can cooperate among themselves and be more successful in their actions. It is particularly expected when prompt assistance to victims is needed. Apart from that, the units might be helpful in organising regional preventive actions such as local conferences, university lectures and practical classes at schools.

- **Cooperate with migrant organisations:** Local governments, but also other stakeholders, could work together with migrant organisations, organisations of ethnic minorities or religious organisations. They know more about what is happening on the ground and what kind of labour problems their countrymen encounter.
- **Cooperate with the Chamber of Commerce:** When someone wants to start a business, in many countries they have to register their company at a Chamber of Commerce. During this registration process, signs of THB for labour exploitation could come to the surface. Cooperating with Chambers of Commerce will ensure that these signs are not lost. If the Chamber of Commerce has suspicions about a business, other governmental organisations that issue permits to businesses, such as local governments, could focus on signs of THB for labour exploitation during the application process of this business and pay more attention to it during supervision and inspection activities.
- **Prevent government contracts being awarded to companies involved in THB for labour exploitation:** Governmental organisations (at the national, regional or local level) that enter into contracts for, for example, the supply of goods or the construction or maintenance of infrastructure or buildings, could develop and / or implement procedures to prevent companies that are involved in THB for labour exploitation or other criminal activities from obtaining these contracts.

EXAMPLE

Screening of (sub)contractors in the Nacka project, Sweden

The Nacka project started in 2004 and aims to prevent criminally connected construction companies from obtaining government contracts and to ensure that no illegal activities, for example THB for labour exploitation and tax evasion, occur at building sites. Only financially sound operators that have the expertise to provide goods and services of the desired quality are eligible for contracts. The contractors and their subcontractors must also have a clean record when it comes to paying taxes and other contributions. In the future, the project will also focus on other economic sectors, such as restaurants, cleaning companies and taxi operators.

The procurement officers of the municipality check whether the company is registered with the Swedish Companies Registration Office and the tax authorities, as well as for payment of social security contributions. They also check whether the company has outstanding debts with the Swedish Tax Authority and the Swedish Economic Crime Authority. Furthermore, the municipality checks the background of applicants against the criminal records held by the police. Operators that have been convicted of corruption, bribery, fraud or money laundering or are known members of criminal organisations are excluded from the procurement procedure. If the supplier is a legal person, these requirements apply to the representatives of that entity.

The contractors are obliged to comply with the requirements stated under the ID06 General Regulations. These regulations entail that anyone working at the construction site must have a valid authorisation card. The contractor must keep daily records on the persons working at the site for his own company as well as for subcontractors.

These records and a specification of the tax returns for each employee must be sent digitally to the Swedish Tax Agency once a month. Subcontracting companies are required to comply with the ID06 General Regulations as well, and must also send a monthly specification of received tax returns to the Tax Agency for every employee. This allows the tax authorities to check whether a person who is registered as an employee working at a specific construction site actually works there. The municipality regularly checks whether the workers who are present at the building site have valid ID06 authorisation cards. If irregularities are detected, the contractor may be fined but it is also possible to stop the work.

Partners involved in the cooperation:
The partners involved are the municipality of Nacka, the Swedish Economic Crime Authority, the Swedish Tax Authority, the Stockholm Association of Building Contractors and Byggnads Stockholm, a trade union.

What makes this practice successful:
The outcome of this project is better cooperation between governmental partners and also cooperation with private parties. The Swedish Parliament is discussing whether the procedures should be included in legislation and thus become the standard for the entire country.

1.1.2 The role of local governments (municipalities) and / or regional governments

In comparison to other authorities, municipalities are in close contact with civilians. They have eyes and ears in many parts of the local society. Municipalities could for example come across signs of THB for labour exploitation during the following activities (in as far as they are part of their responsibilities):

- housing inspections in relation to building permits or overcrowding,
- supervision and inspection activities in relation to public order,
- activities carried out by the Public Health Service and
- registration of inhabitants in the Municipal Personal Records Database.

In order to participate in multidisciplinary cooperation against THB for labour exploitation, local or regional governments could:

- **Appoint an official as THB focal point:** Municipalities (or regional governments) could appoint an official to be responsible for the issue of THB, like a kind of local (or regional) focal point. This official could for example:
  - formulate the municipal policy against THB for labour exploitation, for example on the provision of shelter to victims or on screening applicants for business permits or government contracts for the presence of criminal connections,
  - set up the provision of youth care to underage victims of trafficking,
  - set up awareness and training projects for municipal officials (including, where relevant, librarians and day care employees) that might come into contact with trafficking to improve early detection of possible victims,
  - set up prevention and awareness activities aimed at the workplace or schools, for example by using social media,
  - create an internal procedure for officials to report signs of THB for labour exploitation,
  - coordinate local cooperation against trafficking,
  - set up a local referral mechanism for victims of trafficking, as part of the national mechanism and / or
  - devise ways for the municipality to share information on THB with other organisations.
- **Participate in multidisciplinary meetings on THB for labour exploitation:** In order to coordinate their work with partner organisations, an official appointed as THB focal point could for example represent the municipality in local, regional and / or national meetings where the fight against THB for labour exploitation is discussed.

- **Ensure political support for the role of the municipality:** It is important that the political leaders of the local government, such as the mayor, an alderman or the chairperson of the relevant council committee, support the role the municipality fulfils against THB for labour exploitation. The role of a Mayor, for example, could be very helpful in getting public and political attention for the administrative approach in the fight against THB.

1.1.3 The role of NGOs

As part of multidisciplinary cooperation against THB for labour exploitation, NGOs could:

- **Monitor impact of the anti-trafficking measures:** Often, organisations monitor their work focusing on their annual or multi-annual organisational plans. The definitions of success in these plans differ per organisation, and may not necessarily include the view of the victim on that success. NGOs or NGO networks could monitor and assess the implementation of anti-trafficking and related policies and measures and their impact on the human rights of the victims.

EXAMPLE

SOM: Strategic Meeting of NGOs on Trafficking in Human Beings, the Netherlands

The SOM group holds meetings 3 to 4 times a year and consists of NGOs that work with trafficked persons in the Netherlands. The group's aims include the development of a shared strategy and vision regarding identification of and assistance to victims of trafficking, prevention and law enforcement and to monitor the effects that anti-trafficking policies and practices have on victims. Furthermore, the SOM group aims to forge new partnerships and coordinate new activities regarding the assistance to victims of human trafficking.

Partners involved in the cooperation and their roles

CoMensha; FairWork; Moviera; the specialised shelters for VoT PMW/Humanitas, ACM/HVO Querido and Jade Zorggroep; Defence for Children/ECPAT; Shop The Hague; Fier Fryslân/CKM; the Salvation Army and MJD Groningen are members of the SOM group.
The Bureau of the National Rapporteur is present as an observer.

What makes this practice successful?

In the past three years, the SOM group has been able to monitor the effects that anti-trafficking policies and practices (for example of law enforcement agencies) have on victims and to provide feedback to those responsible. The SOM has been able to bring the victim's perspective into discussions about legislation, policy and practice. For instance, the SOM has indicated how changes in practical adherence to reflection period procedures were negatively affecting victims' willingness to press charges, thus decreasing the number of reports. Parliament then discussed this matter with the government.

In order to enhance mutual understanding between NGOs, trade unions, and legal practitioners, NGOs could :

- Organise meetings with trade unions, lawyers, prosecutors, and / or judges: During these meetings, participants could exchange views on several issues and discuss differences in aims and approach. Topics could include:
- balance between criminal justice and victim's rights,
- prejudice and stereotypes,
- cultural differences, e.g. linked to consent,
- means of coercion,
- length of procedures,
- the victim's perspective, e.g. linked to court behaviour,

- interpretations of legislation, e.g. decisions of the PPS to prequalify a case to a lesser crime and
- overlap and gaps between their work, referral procedures and contacts.

1.1.4 The role of ministries and embassies

As part of multidisciplinary cooperation against THB for labour exploitation, ministries and embassies could:

- **Keep each other informed about national and EU developments:** If ministries keep their embassies, especially in the main source countries of THB for labour exploitation, informed about the main developments in the area of anti-trafficking policy in their country and at EU-level, they enable the embassies to better direct their anti-trafficking activities. Similarly, if embassies keep their ministries informed about the situation in their host country, the ministries can use that information when developing their policies and activities.

Further reading

- ICMPD, Stepping Up the Fight against Trafficking for Labour Exploitation, Vienna, 2013[20].

1.2 Multidisciplinary exchange of information on THB for labour exploitation at the national level

Sharing information on cases and victims is important. Most organisations only see part of the trafficking process. For a more complete overview of what is happening in the area of THB for labour exploitation or a more complete picture of a specific case, organisations need to put their information together. This should enable them to provide a tailor-made response for each individual case and each individual victim. Before sharing information, organisations need to make sure it is allowed under the rules for data protection. Information provided by a victim may only be shared with that victim's approval.

In order to detect as many cases of THB for labour exploitation as possible, member states could:

- **Encourage their implementing bodies to actively look for cases of THB for labour exploitation.** Since THB for labour exploitation can be difficult to detect, it is important to urge implementing bodies to actively try to detect signs of this phenomenon.
- **Provide organisations with a list of indicators:** Many organisations, especially those for whom tackling THB for labour exploitation is not their primary responsibility, will need some guidance to be able to recognise its signs. A list of indicators, if necessary tailored to the environment in which they operate, can be a helpful tool.

EXAMPLE

List of indicators, EuroTrafGuID

The list of indicators from the "Practical tool for First level identification of victims of human trafficking for labour exploitation"[21], which was developed during the EuroTrafGuID-project led by France, has been included in Annex 5.

[20] ICMPD 2013.

[21] EuroTrafGuID 2013.

EXAMPLE

"Spotting the Signs" booklet, UK

The UK's Gangmasters Licensing Authority has also produced the "Spotting the Signs" booklet[22] for a similar purpose. It is currently produced in English and Polish.



- **Draw up guidelines for data collection:** National legislation determines if and how organisations are able to share signs of THB for labour exploitation and other types of information with other organisations, and under which conditions. In order to clarify the roles and responsibilities of the organisations involved in any system for collecting signs of THB for labour exploitation and the data protection rules that apply, it can be useful to draw up guidelines, or an agreement between the partners involved.
- **Set up procedures on disclosing information about their clients to embassies and the MFA:** NGOs could advise other agencies on discretion in their contacts with other agencies.
- **Collect more signs of THB for labour exploitation, including minor indications:** Collecting minor indications of THB for labour exploitation can be very helpful. On their own, these signs may only be a piece of the jigsaw, since most organisations only see a fragment of the trafficking process. They may not provide a discernible pattern that suggests that exploitation is occurring. However, when taken together, several minor indications may provide a clearer picture and enable the start of a case of THB for labour exploitation.

EXAMPLE

If border guards notice persons crossing the border that could be victims and/or perpetrators of THB for labour exploitation, but the signs are not strong enough to intervene straight away, they could talk to the possible victims and suspects and make sure that they register all the relevant information, such as names, number plates and reasons for coming to the country. When the victim is ready to press charges at a later stage, but does not know details such as full names, this early information could be very useful. Obviously, whether this is feasible depends on issues such as the priority given to the collection of these signs, the data protection rules that apply and so on.

[22] GLA 2015.

- **Use a system for multidisciplinary exchange of information:** Member states could consider using a national multidisciplinary system for collecting and analysing signs of THB for labour exploitation from all partners involved. It is important that signs of THB for labour exploitation are collected from multiple sources and then analysed for possible links, since this may increase the chance of identifying cases. Bringing the signs together could also provide insight into the scale of the problem of THB for labour exploitation. The feasibility of such a system depends on the data protection rules that apply and logistical considerations.

EXAMPLE

Website to share and collect information on THB, including for labour exploitation, Italy

In Italy, the Department for Equal Opportunities of the Italian Presidency of the Council of Ministers has set up a website to disseminate information on THB, including for labour exploitation. Next to general information, the site comprises a collection of news, surveys, events and conferences, and awareness campaigns on THB, implemented both in Italy and all over Europe. Furthermore, a special section is devoted to national and international legislation and jurisprudence with penal and administrative judgements.

The website also includes a secure area for registered NGOs and local authorities managing emergencies, assistance, protection and social inclusion projects for victims of human trafficking carried out in Italy. Through this area, the so-called SIRIT (Sistema Informatizzato di Raccolta Informazioni sulla Tratta – Computerised system for the collection of information on trafficking in human beings) database is fed. SIRIT gathers all information on victims of human trafficking entering the protection projects.

The address of the website is: http://www.osservatoriointerventitratta.it/

- **Share information on trends:** Next to sharing signs of THB for labour exploitation, it is also important to share information on trends. If one organisations identifies a new trend in the area of THB for labour exploitation, they should share this with their partners, who might otherwise miss the signs of this new type of THB.

EXAMPLE

- Embassies or Immigration Liaison Officers of member states in source countries could for example be the first to come across a new type of THB for labour exploitation or a new modus operandi. They should share information about this trend with the relevant authorities in their own country, so they are ready to cope with it when it reaches their country.
- Similarly, the relevant authorities in destination countries (e.g. law enforcement agencies, local governments) could share information about trends they come across with the MFA, so that embassies and consulates can look out for it during the visa process.

- **Involve all relevant organisations in identifying signs of THB for labour exploitation:** Signs of THB for labour exploitation can come from many different sources and be detected in many different ways. For example, churches could come into contact with possible victims of THB for labour exploitation that may not otherwise come to the attention of the authorities. Signs could also be picked up by looking closely at the paperwork that individuals or organisations have to submit to government agencies during certain procedures. It is therefore important to consider which organisations could contribute when signs of THB are collected.

EXAMPLE

Identification of a victim of THB for labour exploitation by school teachers, Luxembourg

A Chinese girl was brought to Luxembourg on the premise of family reunion with the perpetrators, allegedly her dad and stepmother. The victim was brought to school upon arrival as legally required. The girl was forced to take daily care of the perpetrators' three children, to do the housekeeping in their shared residence and to work in the perpetrators' restaurant. Her state of recurring fatigue and absenteeism at school caught the teachers' attention. They alerted social services, which in turn alerted the Tribunal for Children (Tribunal de la jeunesse du tribunal d'arrondissement de Luxembourg). A prosecutor then ordered an investigation by the police. The defendants were convicted of voluntary human trafficking of a minor[23].

EXAMPLE

GAIN network in England and Wales, UK[24]

The Government Agencies Intelligence Network (GAIN) in England and Wales facilitates the exchange of information between public sector enforcement agencies, where legal gateways exist. GAIN is aimed at reducing the threat, harm and risk associated with serious and organised crime. At the regional level, the partner organisations generally meet once every three months to discuss ongoing and emerging issues and cases. The aim of these meetings is to decide on actions and resources. The GAIN Executive group facilitates the programme at the national level.

Partners involved in the cooperation and their roles

Twenty different governmental bodies were participating in the network in May 2014, including the police, HM Revenue and Customs, the National Health Service – Protect, Trading Standards, the Gambling Commission, the Driver & Vehicle Standards Agency, and the Environment Agency.

Requests for information are forwarded through a secure online system to the regional GAIN coordinator, who distributes the form to all or a selection of the other partners. The partners establish whether they have relevant information and report this as either a 'hit' or a 'no-hit.' In the event of a hit, further information is exchanged bilaterally. The outcome may also be that two or more partner organisations work on the case together, for example in a joint investigation.

[23] European Commission 2015b.

[24] Text based on Spapens, Peters and Van Daele 2015.

What makes this practice successful?
GAIN offers:
- A strategic multi-agency problem solving partnership,
- Enhanced intelligence- and information-sharing between government agencies,
- Joint agency intelligence-led operations targeted towards high-level criminality,
- Cost-effective collaborations and maximised asset recovery opportunities, to secure the public purse,
- Reduction, disruption, detection and prevention of serious and organised crime, and
- Established links to other non-government agencies and private businesses.

- **Inform professionals (and the general public) where to report signs:** Procedures for the collection of signs of THB for labour exploitation need to be communicated well, so that people know where they can report those signs, both within organisations and from those organisations to the central collection point. If citizens come across signs of THB for labour exploitation, they should be able to easily find a phone number to report these signs, for example through a website. The number could be a THB helpline, the general police number or a number to report crime anonymously.
- **Provide feedback on the signs reported:** It is important to let the organisations that have reported signs know what has happened with those signs, for example whether they have led to an investigation. This will show them that their efforts are appreciated and may help to keep them committed to identifying THB for labour exploitation.

Organisations that may be able to detect signs of THB for labour exploitation include:
This list is not exhaustive, but serves to illustrate the wide range of organisations that could be involved in addressing THB for labour exploitation.

Organisation	Activities during which they may be able to detect signs of THB for labour exploitation
The labour inspectorate and other inspectorates	- during routine or targeted inspections of work places in risk sectors; - when checking contracts or work permits; - through the notification of posted workers to the labour inspectorate (in combination with other information); - through mandatory declarations on the contractors and subcontractors working on a construction site; - through complaints about working conditions and occupational health regulations
The police and other criminal investigation services	- when carrying our traffic controls (traffic police); - when carrying out foot patrols (local police); - during checks of companies; - when investigating other criminal offences; - following a direct complaint from a victim; - following a report from a concerned third party (including missing persons reports); - as part of a joint investigation initiated by another country's police; - during the targeted review of relevant intelligence or creation of local problem profile; - after arresting a (potential) victim for another offence, which may be directly or indirectly connected to their exploitation (e.g. begging or so-called 'survival crime' such as shoplifting); - after arresting a suspected offender for another offence (for example assault or construction work that involves fraud or false representation)
The prosecution service	- during cases of related crimes they are working on

Organisation	Activities during which they may be able to detect signs of THB for labour exploitation
The border force	- during passport (and other document) controls; - during regular (un)scheduled border patrols at road, air and maritime border crossing points; - during targeted raids
Migration services	- through Immigration Liaison Officers; - through the visa unit; - through the citizenship office; - through the expatriates office; - in reception centres for asylum seekers
Prison service / Aliens detention service	- in prisons or alien detention centres
Tax authorities	- during checks of the wages administration and inspections of companies
Social security authorities	- when people come to register; - when people claim benefits, for example through the detection of suspicious claims, be it through manual inquiries or flags raised on automated systems
Local or regional governments	- through social service involvement in cases involving children or vulnerable adults; - when people register their place of residence (this applies only in some member states);. - through inspecting the safety and levels of habitation of rented accommodation; - through the expatriates office
Social services	- through the activities of social workers; - through the activities of guardians
Embassies / consulates	- when dealing with visa applications; - when providing consular services to potential victims
Health care sector: GPs, hospitals, clinics, care providers etc	- when encountering potential victims, for example when medical assistance is sought in following workplace-related injuries or a pregnancy
Chambers of commerce	- when people come to register as self-employed (when this is bogus)
NGOs and outreach services	- through contacts with migrant communities; - through the provision of targeted support services for disadvantaged groups (e.g. via soup kitchens); - through information provided about their peers by other victims of trafficking already accessing support services
Churches, other faith groups and migrant organisations	- through the provision of charity and welfare
Trade unions	- through their contacts at the work place
Lawyers	- dealing with cases of or related to THB for labour exploitation

Organisation	Activities during which they may be able to detect signs of THB for labour exploitation
Businesses: e.g. Restaurants, Hotels, Farms, for example those where seasonal work is carried out Factories Employment agencies (state or private) Insurance companies Internet providers Construction companies Postal and delivery services Tourist agencies Airline companies Bus companies Banks	- when people book a journey; - when people take a plane; - when people take the bus; - when people open a bank account; - through the pattern of use of the bank account; - when people come to deposit or withdraw money; - when too many people have bank accounts at the same address
The general public	- through checks by the neighbourhood watch; - through concerns about disorder and / or overcrowding properties used to house victims
Victims or colleagues of victims	- when victims self-report; - through contact between non-exploited members of staff and their potentially exploited peers
In general	- by talking to (migrant) workers; - by monitoring job advertisements that offer work abroad (see also 3.1 on recruitment); - when whistleblowers come forward.

Chapter 2
Investigations and prosecutions of cases of THB for labour exploitation

Introduction

It is important to thoroughly investigate and then prosecute THB for labour exploitation, in order to send a clear signal that this is a crime that will not be tolerated. However, proving THB for labour exploitation can be difficult and it can be unclear where the line is between poor working conditions and THB for labour exploitation. This chapter contains suggestions on how a case for THB for labour exploitation may be built and how prosecutors may increase their chances of obtaining a conviction for THB for labour exploitation.

2.1 Multidisciplinary and cross-border cooperation

In order to address all cases of THB for labour exploitation, big or small, organisations could:

- **Decide whether to prosecute for violations of criminal, labour or tax law:** Multidisciplinary cooperation can have added value when deciding what the perpetrators should be prosecuted for. If it is not possible to make a case for THB for labour exploitation, it may still be possible to prosecute for violations of labour or tax law. Although these charges may carry lower sentences, significant sanctions may still be achieved if perpetrators are charged for multiple violations or other crimes. This way the activities may be disturbed, or small violations of labour law may be prevented from turning into THB for labour exploitation. In order to prosecute for other crimes, it is not enough to have the police working on the case; the expertise of the labour inspectorate and / or the tax authorities will be needed too.

Information on cross-border investigation and prosecution of THB for labour exploitation can be found in chapter 6.

2.2 The role of police forces and other criminal investigation services

2.2.1 Building a case of THB for labour exploitation

In some countries (almost half of the member states, according to research carried out by Eurojust[25]), a victim has to lodge a criminal complaint before a criminal investigation into THB for labour exploitation can begin. In other countries, law enforcement agencies can investigate and prosecute THB for labour exploitation on their own initiative (ex officio), that is: without the report of a victim. Either way, building a case on evidence other than (only) the testimony of the victim is encouraged.

In order to build a case, the police and / or other criminal investigation services could:

- **Try to build a case independent of the victim's testimony:** A case that relies solely on the evidence of a victim may be vulnerable. If a case can be proven independent of the testimony of the victim, this may (in some countries) diminish the pressure on the victim to provide the bulk of the necessary evidence in court or (in other countries) release the victim from testifying in court completely. It could

[25] Eurojust 2015a.

also make the case stronger, since it diminishes or even removes completely the possibility for the defence to question the consistency of the evidence given by victim. This is even more important if the victim does not consider him- or herself to be a victim. 4.2 contains information on how to treat a victim of THB for labour exploitation during an investigation.

- **Gather evidence through paperwork, special investigative methods, social media and financial investigations:** Evidence may for example be found by talking to witnesses, gathering the relevant paperwork (contracts, applications, permits, registrations and so on) and through the use of special investigative methods, such as the tapping of phone and internet communications, observation, the use of tracking devices, and so on. Social media may be a very useful source of information, as can digital devices such as phones and laptops. Financial investigations may provide important evidence of the crimes committed. With some additional knowledge, the use of underground banking, bitcoins and so on may be investigated. Detectives may want to consider using innovative methods when building a case of THB for labour exploitation. National legislation of course determines which investigative techniques and/or sources can be used in cases of THB for labour exploitation, which data can be used as evidence in court and how.
- **Collect information about the victim's background:** Information about the background and environment of the victim, such as where they lived before they were trafficked, their education, work, family situation, and so on, may help explain to a judge why this person became a victim of THB for labour exploitation.
- **Adopt a three dimensional approach to investigations:** The OSCE recommends that criminal investigation services adopt a so-called three dimensional approach, which focuses on:
  - "the past: reconstituting how the criminal offence was committed to provide evidence for the prosecution of the case and for the confiscation of the proceeds of crime,
  - the present: opening new investigation avenues (domestic and/or international) by identifying new leads and identifying or confirming links between individuals, legal entities, activities, addresses and bank accounts,
  - the future: identifying the modus operandi of the crime and relevant typologies to improve the understanding of THB, refine preventive measures and detection tools and identify early warning signals of THB-related activities[26]".
- **Beware of THB for labour exploitation when investigating a related crime:** Sometimes, it will only become clear that investigators are dealing with a case of THB for labour exploitation during the investigation. For example, crimes such as theft from food shops may be the result of victims resorting to petty crime to feed themselves because they have not been given enough food or money. Similarly, a case of THB for labour exploitation may begin with someone encountering twenty people living in a single-family dwelling or uncovering a case of migrant smuggling. Investigators therefore need to keep an open mind when investigating crimes related to THB for labour exploitation.
- **Keep in mind that victims do not always see themselves as victims:** When conducting an investigation, it may be wise to keep in mind that many victims may not see themselves as victims. Victims often lack information on what it means to be a victim and may feel the trafficking situation is still an improvement on the situation they left behind at home, especially if they are paid more than a job back home might pay. If the money is not forthcoming or less than what was agreed, or if the traffickers use violence or threaten to use violence, the victims may start to realise the situation they are in. An explanation by the police or by an NGO of why they are considered to be a victim of THB for labour exploitation may also help to change their mind in some cases. The steps to take when explaining the situation could include:
  1) providing information to the victim on his/her labour rights under the labour laws in the country of destination. Through providing the victim with a single point of contact and developing a relationship built upon trust, this may enable the victim to recognise (although possibly not immediately) that they have been exploited;
  2) letting the victim decide whether action will be taken or not. If he/she would like an investigation to take place, he/she may decide to provide the police with information on the exploitative situation; and
  3) respecting the victim's decision.

[26] OSCE 2014c.

- **Bear in mind it may be necessary to intervene early:** Knowledge about the inhuman situation that victims find themselves in often means that Law Enforcement Agencies (LEA) have to intervene earlier than they would have in another kind of investigation. The intervention may alert the traffickers to the fact that the authorities are on to them, which may make it more difficult to collect enough evidence on all people involved in the trafficking organisation. However, rescuing the victims is more important.
- **Build a network of relevant partners:** It may be useful to talk to all relevant organisations that may be able to help with information about the organised crime group under investigation at an early stage. This could include the police in destination, source and transit countries, the border guards, municipalities etc. That way, investigators may collect information from different sources and establish personal contacts they may need later on in the investigation.
- **Cooperate with NGOs:** NGOs may also be useful partners. Victims may trust NGOs more than they trust the police and may therefore confide in NGOs.

EXAMPLE

Special programme for support and protection of victims, Czech Republic

In the Czech Republic, the Ministry of Interior set up a special programme for support and protection of victims of THB older than 18 years. The objective of the programme is to provide probable victims of THB with support and protection based on an individual risk assessment and to enable access to the programme of witness protection. The programme also protects potential victims of THB who are witnesses in a trial and who cooperate with law enforcement authorities. If a potential victim voluntarily accepts an offer to participate in the programme he/she fills in and signs an initial statement which encompasses the rights and duties relating to his/her involvement in the programme.

The victims are provided with accommodation, psychosocial services, legal services, vocational training etc. As an integral part of the programme, the victims are granted a 60-days reflection period during which they can decide whether or not they want to come into contact with law enforcement agencies or not. A system of voluntary return for third-country nationals and EU citizens who are victims of THB in the Czech Republic or Czech citizens identified abroad is also included in the programme.

Participants:

Specialised NGOs or the police can nominate people for placement in the programme, after which the Ministry of the Interior is consulted as the provider of the programme.

What makes this practice successful:

All the victims enrolled in the program for the year 2014 gave consent to provide the police with evidence concerning their cases. NGOs can thus make an important contribution to the willingness of victims to cooperate with the police. The NGOs motivate the victims during their reflection period by providing them with information about their rights as well as obligations that arise from being in the position of witness in a trial.

- **Use the support provided by and information held by Europol:** see Annex 1 for information on the support that Europol can provide in cross-border cases.
- **Get a second opinion:** In a complex case, it may be worth getting a second opinion from a criminal investigator not connected to the case.

2.2.2 Creating a foundation to work on

In order to increase the chances of successful investigations, the relevant organisations could:

- **Create an expertise centre or specialised unit or team:** In order to make sure that expertise on how to handle cases of THB for labour exploitation is collected and shared across the country, a unit or centre at the national level could be created. This unit could provide advice on criminal investigations, for example through the trained investigators mentioned in 5.2.3 . Specialised teams may also increase the chances of successful investigations.

EXAMPLE

UKHTC: the UK Human Trafficking Centre

The UK Human Trafficking Centre (UKHTC) is part of the National Crime Agency. It has tactical advisors, an intelligence development capability and manages part of the National Referral Mechanism for victims of trafficking.

- The role of the five regional Tactical Advisors is to support the development and implementation of operational tactical responses to offences of trafficking. Advice is provided on policy and investigative strategy. The advisors have knowledge of cultural and religious issues in relation to the rescue of potential victims and arrest of offenders which can assist law enforcement at all stages. UKHTC has produced an Operational Field Guide for use by investigators when dealing with trafficking offences.
- As part of its Intelligence Development capability, UKHTC manages the UK disseminations of intelligence relating to human trafficking. Intelligence packages for action are forwarded to law enforcement partners both within and outside the UK. The Intelligence Team also reports frequently to the Home Office in order to inform strategy development and amendments to UK legislation, such as the Modern Slavery Act.
- Finally, UKHTC is responsible for carrying out the National Referral Mechanism assessments of EU nationals, to determine whether they are victims of trafficking. (The UK Border Force is responsible for non-EU nationals).

See: http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre

EXAMPLE

Specialised teams of labour inspectors, Belgium

Belgium has specialised teams called ECOSOC-teams consisting of inspectors who have been trained in detecting situations of possible trafficking and labour exploitation. The ECOSOC-inspectors have a mandate to investigate THB for labour exploitation, they have a thorough knowledge of THB legislation, know about the relevant indicators, know the procedure for referring potential victims to a referral centre, have a network of relevant actors that can intervene in THB investigations (the police, in the first place), report timely to the (labour) prosecutor on their findings. ECOSOC-team leaders are the SPOCs (single points of contact) for actors like local police and other social or labour inspectorates for all situations involving labour exploitation.

In the field of labour exploitation, the Social Inspectorate's role has evolved from an actor assisting the police to that of the actor increasingly taking the lead of the investigation, due to the mandate and expertise and experience in the field – the inspectorate having made this kind of investigations one of its main focuses, created specialised units and trained inspectors. Most often, inspectors are the first to be confronted with situations of labour exploitation, because they have large investigating powers. Having the power to enter any workplace day and night without prior notice and without a warrant, the inspectors can also enter private houses with a warrant issued by a judge when they have indications that people are being put to work there.

What makes this approach successful:
The number of investigations by ECOSOC inspectors and of reports to the prosecutor on labour exploitation has risen in the past years. The Social Inspectorate made investigating cases of THB for the purpose of labour exploitation a strategic and operational priority, which allowed for the specialisation of a number of agents. These specialised agents combine efforts with police and operate in (small) local networks consisting of THB specialists in other domains (besides police, also the THB prosecutor, referral centres and Immigration Office). These circles of experts know and trust each other, which facilitates effective cooperation.

- **Register all signs of THB for labour exploitation, even though they may not seem important:** see 1.2 for more information.
- **Keep a close eye on the bilateral intelligence exchange:** The police liaison office at an embassy could discover signs of travel movements of potential victims of THB for labour exploitation by monitoring the intelligence exchange between the police forces of his / her own country and the country where he / she is posted.

Further reading on investigating THB for labour exploitation
- ICMPD, Human Trafficking – How to Investigate it. Training Manual for Law Enforcement Officers, Vienna 2015[27].

2.2.3 The use of interpretation
When dealing with victims in their own language, one will most likely receive more information and as such will be better able to not only build a case but also to support the victim. Interpreters may also be needed to interview suspects or translate documents. In order to be able to cope with the other languages encountered, organisations could:
- **Recruit dedicated language officers:** Recruiting officers who speak the language of the main source countries of victims of THB for labour exploitation improves communication with potential victims and enables the intelligence team to interview the workers to identify the extent and method of their exploitation.

EXAMPLE

Dedicated language officers in the UK and Ireland

The Gangmasters Licensing Authority (GLA) in the UK has two dedicated staff who speak Eastern European languages. The National Employment Rights Authority (NERA) in Ireland have recruited a number of inspectors from migrant communities.

[27] ICMPD 2015.

- **Use a seconded officer from the country of origin:** Seconded officers from the country of origin of the victims can assist in communicating with the victims during an action. This does require thorough preparation; the seconded officers will need to be briefed on the powers and methods of the police force or labour inspectorate they will be assisting, so that they do not do or say things that are not allowed.
- **Use a (specialised) interpreter:** In some countries, a sworn interpreter will always be the preferred option for interviews, just in case the information gathered needs to be used in court. Ideally, specialised interpreters (of the most common languages of victims of THB for labour exploitation) would be available 24/7. It is important to explain to the interpreter that during the interview, he/she should provide a literal translation of the questions and answers and refrain from adding his/her own ideas to the conversation. When documents need to be entered into evidence during the court case, an official translation will be needed too.
- **Ask an NGO to translate:** If no official interpreter is available, sometimes NGOs may be able to provide interpretation.
- **Use a questionnaire in the victims' language:** If no translation is available on the spot, preparing a short questionnaire in the language of the workers or victims beforehand may be useful. This questionnaire only has to contain a few simple questions, e.g. how much they get paid and who their employer is. The answers may contain enough information to decide that a further enquiry is needed.

EXAMPLE

Using a questionnaire in the victims' language, Bulgaria

The Bulgarian labour inspectorate uses a questionnaire with a few simple questions, which needs to be filled out by everyone who is present at the work premises at the moment of inspection. The questions help to collect information on the employer, working hours and wages. This declaration can be translated into different languages if there is information about the presence of foreign workers before the inspection. The questionnaires can be used as evidence before the court.

- **Use the VITA-tool:** Technology may also help with translation. The VITA (Victim Translation Assistance)-tool contains audio recordings of thirty-five basic questions and messages for victims that have been translated into 40 languages. This can be very useful for the initial communication when possible victims have been found. It was developed by UN.GIFT/UNODC, the Austrian Criminal Intelligence Service and the Austrian NGO LEFÖ-IBF and can be found on http://www.ungift.org/knowledgehub/en/tools/vita.html.

Suggestions how law enforcement agencies could deal with victims can be found in 4.2.

2.3 The role of prosecution services

In order to successfully prosecute cases of THB for labour exploitation, prosecution services could:

- **Use a system to select the cases that are most likely to lead to a conviction:** Since getting a conviction for THB for labour exploitation can be difficult, it may be worthwhile to focus scarce resources on investigating and prosecuting the cases that are most likely to convince a judge and settle the other cases using other powers, for example under labour law. National legislation determines whether a prosecutor is in fact allowed to select the cases most likely to end successfully.

EXAMPLE

The CMO / CSO structure for selection of cases for prosecution, the Netherlands

In the Netherlands, the selection of cases of THB for labour exploitation for prosecution takes place in two stages. All signs of THB for labour exploitation are discussed in the central notification meeting (CMO), which consists of a public prosecutor and the Criminal Investigation Directorate of the Inspectorate SZW. In case of a suspicion of a criminal offence, the public prosecutor will request additional information to be collected on this case.

When the case has acquired more substance, it is presented in the central selection meeting (CSO). If the participants are convinced of the feasibility of prosecuting the case, it will be selected for prosecution. Cases of which the feasibility has not been established yet will either be further investigated or redirected to be settled by the Inspectorate SZW under administrative law, for example through the imposition of administrative fines.

Participants:

- Public prosecutor: decides which cases will be prosecuted.
- Criminal Investigation Directorate of the Inspectorate SZW: investigates the cases and presents them in the CMO and CSO meetings.

What makes this practice successful:

This system of selection helps to create an overview of possible cases of THB for labour exploitation, ensures a unified approach to those cases and helps to keep criminal law as the ultimum remedium by choosing the cases that are most likely to lead to a conviction.

- **Try to prosecute the suspects for more than just THB:** If trafficking suspects are also prosecuted for other crimes, for example for membership of an organised crime group, they may be given higher sentences. Including other crimes may also lead to the suspects being convicted of lesser crimes if the judge decides that THB for labour exploitation has not been proven.
- **Try to prosecute legal persons:** Legal persons are rarely prosecuted for THB for labour exploitation, even though article 5 of the EU anti-trafficking directive[28] determines that member states need to ensure that legal persons can be held liable for THB. The conviction of one company for THB for labour exploitation may encourage other companies to invest in the prevention of THB.

EXAMPLE

The Carestel Case: The prosecution of a company for the exploitation of restroom attendants, Belgium (2012)

For years the company Carestel (a restaurant chain) outsourced the services in its restrooms at several motorway service areas in Belgium. Carestel contracted a German company which recruited men and women who found themselves in precarious situations in Kazakhstan, Moldova, Bulgaria and Romania. Formally each of these restroom attendants was a self-employed person running their own company in Germany.

[28] EU Directive 2011 / 36 / EU.

A number of inspection visits to these motorway restaurant restrooms had raised suspicions of irregularities: false documents were used, the workers were constantly underpaid and often received no payment for weeks in a row and they faced excessively long working periods, constantly changing workplaces, bad living conditions, restrained mobility and total isolation.

A team of investigators composed of police officers and labour inspectors was set up, led by an investigative judge. Interviews were conducted, searches done, a team of policemen and inspectors went on a rogatory mission to Germany, and detailed reports of labour inspectors and police were sent to the prosecutor, who prosecuted both the actual employer (the German subcontracting company) and the contractor (i.e. Carestel). In its judgment of 5 November 2012 the Criminal Court of Ghent convicted not only the German company for THB for the purpose of labour exploitation with aggravating circumstances, the Court also convicted Carestel as an accomplice to the THB that the German company was found guilty of as the employer. The Court judged that the restaurant chain and its managers deliberately chose to ignore the exploitative conditions imposed on the workers by the German employer.

Partners involved in the cooperation and their roles:
Labour inspectorate: carrying out inspections, informing partners about case of THB for labour exploitation, taking part in team that carried out investigation.
Police: taking part in team that carried out investigation.
Investigative judge: leading the investigative team.
Prosecutor: appointing an investigative judge and prosecuting suspected companies.

What makes this case successful:
The guidelines of the Belgian prosecution service direct investigators to take a closer look at the companies involved in THB for labour exploitation. This case was successful from a prosecutorial point of view: both the prosecutor and the Court held a company further up the supply chain responsible for trafficking, which never happened before in Belgium.

At the time of writing, the Belgian prosecution service is prosecuting a second legal person as an accomplice to THB for labour exploitation, namely the hamburger chain Quick.

- **Publish guidance on how to prosecute cases of THB for labour exploitation:** In order to promote a consistent approach to the prosecution of cases of THB for labour exploitation, including to the sentences prosecutors are able to suggest in some countries, and to share best practices, prosecution services could publish guidance on prosecuting cases of THB for labour exploitation.

EXAMPLE

UK policy for prosecuting cases of THB

The UK policy for prosecuting cases of THB can be found on this website:
https://www.cps.gov.uk/publications/docs/policy_for_prosecuting_cases_of_human_trafficking.pdf

- **Analyse jurisprudence from other countries and European courts:** Because of the ambiguity of the scope of THB for labour exploitation, jurisprudence is of great importance to provide more clarity. Prosecution services could not only look at verdicts of national courts, but also at those of other courts in EU member states and at the European level, including the European Court of Human Rights (ECtHR), to analyse valuable arguments and terminology. This could help them prepare their own prosecutions. For that purpose, it may be helpful to widely distribute important court decisions.

EXAMPLE

UNODC Human Trafficking Case Law Database

In 2011, UNODC launched a database of human trafficking case law to provide public access to officially documented instances of this crime. The database aims to make real cases available as examples of how the respective national laws in place can be used to prosecute human trafficking. At the time of writing, the database contained more than 1,200 cases from 83 different countries and two supranational courts. Of these cases, 232 concern verdicts in the category of "Forced labour or services". The database can be browsed by country or by keyword, for example on the form of exploitation, the means of coercion or the sector of the economy in which the exploitation took place. The database is available in English, Spanish and French and can be found at: http://www.unodc.org/cld/index.jspx.

EXAMPLE

Study on case-law relating to trafficking in human beings for labour exploitation, European Commission

In 2015, the European Commission published a Study on case-law relating to trafficking in human beings for labour exploitation[29]. The aim of this study was to identify case law relating to THB for the purpose of labour exploitation in member state during the period 2009 - 2013 and to analyse member state practice with respect to prosecution of this crime. Key observations highlight the diversity of practice among the member states, and stress the challenges in prosecution, among others on securing evidence and lack of sufficient protection measures. Additionally, the study touches upon the availability and use of resources (training to staff, size of staff, equipment, data collection), as well as the role of labour inspectors.

- **Use the support offered by Eurojust:** See Annex 1 for the support that Eurojust can offer to prosecutors in cross-border cases.
- **Get a second opinion from another prosecutor:** Advice from another prosecutor can help make the case as convincing and strong as it can be.

Suggestions for how law enforcement agencies could deal with victims can be found in 4.2.

[29] European Commission 2015b

2.4 The role of embassies

In order to facilitate cross-border investigation and prosecutions of THB for labour exploitation, embassies could:

- **Assist with requests for mutual legal assistance:** In order to facilitate cooperation on THB for labour exploitation between the law enforcement agencies of their own country and their host country, embassies could consider not just forwarding a request for mutual legal assistance to the correct address, but actively keeping in touch with authorities on both sides to expedite the execution of the request.
- **Assist law enforcement agencies in concluding MoUs:** In order to facilitate cross-border operational cooperation against THB for labour exploitation, law enforcement agencies may want to conclude Memoranda of Understanding (MoUs) with priority source countries of victims. Embassies in these priority countries could assist in the conclusion of these MoUs, through identifying the partners that are authorised to conclude MoUs, arranging meetings between the relevant counterparts or conducting meetings with the authorities in the host country based on the instructions received from their own agencies.
- **Support the initiation or implementation of work programmes:** Embassies could help organisations in source and destination countries initiate and implement work programmes to strengthen cooperation. Liaison officers attached to embassies such as a police attachés or prosecutors could play a role in this respect.

Examples are bilateral police work programmes between Bulgaria and Romania and the Netherlands and seconded prosecutors with a regional task.

Further reading

- International Labour Organisation, Forced Labour and Human trafficking – casebook of Court decisions, Geneva 2009[30].

[30] ILO 2009.

Chapter 3
The process of THB for labour exploitation

Introduction

The process of THB for labour exploitation consists of different steps or aspects. They are recruitment, entry / identity, residence status, housing, work and financial aspects. These are all things a trafficker has to organise before he / she can start profiting from the exploitation of others:

- recruitment: the trafficker needs to recruit the victims;
- entry / identity: if the victims are third-country nationals, the trafficker has to find a way to move them into the country where he / she intends to exploit them; victims from third countries may also need (false) identity documents to gain entry to the country, register as an inhabitant and so on;
- residence status: the trafficker may need to find a way to obtain a residence status for victims from third countries;
- housing: the trafficker will need to find a place to house the victims;
- work: the trafficker will need to find work to exploit the victims' labour; and
- financial aspects: the trafficker will need to launder the money he earns from the exploitation in order to be able to use it.

Each of these aspects provides points of intervention for governmental organisations where it is possible to receive, recognise and communicate signs of THB for labour exploitation or to take measures to prevent or fight THB for labour exploitation. By dividing the process of trafficking into separate steps, it is possible to zoom in on a specific element and consider the possibilities it offers to counteract THB for labour exploitation. Recruitment may be prevented by making vulnerable people aware of the risks of THB; victims may be intercepted when they enter the country if the border guards know what to look for; and the members of a network involved in THB for labour exploitation may be identified when criminal investigators follow the money trail. The paragraphs of this chapter describe what different organisations could do regarding these six different aspects of THB for labour exploitation.

The Dutch authorities apply the so-called barrier model to these six aspects of THB for labour exploitation. The barrier model has been included in Annex 6.

3.1 Recruitment for THB for labour exploitation

Introduction

Victims are often lured and recruited through direct solicitation, word of mouth or through online advertisements, posted on social media and websites (e.g. of online recruitment agencies) in the country of origin. Sometimes advertisements in newspapers are used or even advertisements on teletext. In many cases, migrant workers find work through employment (or recruitment) agencies. In other cases, the migrant worker already has a relation with the trafficker, for instance having previously been employed by a trafficker's family member or being from the same village or even family.

Employment agencies fulfil a legitimate role in a modern economy to arrange for the temporary recruitment of extra staff for businesses at peak periods of demand for their products. In such situations, the urgent need for workers may result in employment agencies not completing their procedures properly to the detriment of workers. This may not be noticed by the end user due to their focus on the need to meet the demand for their product. Such situations are a breeding ground for deceptive

recruitment that enables exploitation of workers to occur. Traffickers may for example recognise that employment agencies need a supply of workers in order to fulfil the requirements of the end user. They may seek to exploit that requirement and direct or accompany workers to the agency. Legitimate businesses may thus be infiltrated by workers who are subject to THB for labour exploitation and in the control of the exploiter.

Recruiters often deceive the victims, including by promising a certain type of work, transportation to the destination country, good wages, a social security number, a bank account, housing and food. High fees are often charged for being recruited and deducted from the wages. This could lead to victims ending up in debt bondage. Workers are often already in debt before they arrive in the destination country, making them very vulnerable to exploitation.

Workers therefore need to be given information about the risks they face when they are being recruited and about the rights they have. Awareness campaigns aimed at potential migrant workers and other vulnerable groups are an important means to prevent deceptive recruitment. Information on awareness campaigns can be found in Chapter 5. In order to tackle fraudulent recruitment, cross-border cooperation may be necessary since recruitment and work often take place in different countries.

3.1.1 General information

In order to prevent and counteract recruitment for THB for labour exploitation, the relevant organisations could:

- **Tackle fraudulent practices of employment agencies:** Standards could be developed for employment agencies regarding compliance with labour law and health and safety laws. The system to enforce these standards could take the form of licensing or certification for (temporary) employment agencies with respect to for instance the payment of taxes and social insurance contributions, payment of the minimum wage, the legitimacy of employment and housing. A system of licensing or certification can only work if there is a monitoring system in place to ensure continued compliance with these standards through frequent checks. Working without a license or using a company without a license could be made punishable. When the company applying for the license is based in another country, information from that country will be needed in order to assess the application.
- **Limit or prohibit the payment of recruitment fees:** Since the payment of high recruitment fees may put workers in debt and give the traffickers control over them, consideration could be given to limiting the amount that recruiters are allowed to charge or prohibiting recruitment fees altogether.

EXAMPLE

Limiting the registration fee for au pairs, the Netherlands

After discovering that some employment agencies for au pairs were charging excessive registration fees, the Netherlands determined in 2012 that the maximum registration fee for au pairs would be set at € 34,-.

3.1.2 Multidisciplinary and cross-border cooperation

In order to address recruitment for THB for labour exploitation, organisations could:

- **Exchange information on recruitment agencies:** Agencies that recruit workers are not always based in the country where the work is carried out. Cross-border mediation of employment makes enforcement of any system more difficult. In order to make sure that these agencies are abiding by the necessary laws and regulations, the responsible organisations (e.g. labour inspectorates) in the source and destination countries of these workers need to share their information on the recruitment agencies involved. For example, it would benefit the action against infractions of the regulations and THB for labour exploitation if any violations committed by them should be shared with the country of origin or destination.

3.1.3 The role of police forces and other criminal investigation services

When investigating the recruitment phase of THB for labour exploitation, police forces could:

- **Look into the role of recruitment agencies:** Detectives could look for possible involvement of recruitment agencies in THB for labour exploitation.
- **Look for evidence of recruitment fees:** Proof of payment of recruitment fees can form part of the evidence in a case of THB for labour exploitation, which may support (or even replace) a victim's statement.
- **Find out if the victim has debts:** Detectives could look at who has lent the victim money to pay for recruitment, travel and so on.
- **Look for forged documents:** When forged documents are discovered, and circumstances do not yet point to a situation of THB for labour exploitation, there is a good chance these documents will be used in the commission of a future crime. The individuals on the documents may become subject to THB for labour exploitation and may be warned in advance. The passports may be seized so as not to be used in the commission of a crime. The forger has already committed a criminal offence and may therefore be prosecuted.

3.1.4 The role of labour, social, health and fisheries inspectorates

To address recruitment for THB for labour exploitation, inspectorates could:

- **Check job vacancies:** Labour inspectorates could check job vacancies for fraudulent or deceptive content which could be an indicator of THB for labour exploitation.

EXAMPLE

A phone number to check job offers, Portugal

In 2014 an awareness campaign took place on public transportation (buses, trains), ATM machines and billboards and using flyers, radio and TV spots for the purpose of tackling THB for labour exploitation. There was a telephone number which the public could call when they had seen suspicious recruitment ads or received an extraordinary job offer in order to get an expert's opinion on it. The suspicious cases would be forwarded to the competent LEA.

The campaign materials can be found on this website: http://www.cig.gov.pt/campanhas/apanhados-no-trafico-humano/



Further reading

- The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic Sea region – In brief, Helsinki 2014[31].
- European Union Agency for Fundamental Rights (FRA), Severe labour exploitation: workers moving within or into the European Union, Luxembourg: Publications Office of the European Union, 2015[32].
- International Labour Organisation, Global labour recruitment in a supply chain context, Geneva 2015[33].

31 HEUNI 2014.

32 FRA 2015.

33 ILO 2015b.

- International Labour Organisation, Regulating labour recruitment to prevent human trafficking and to foster fair migration: Models, challenges and opportunities, Geneva 2015[34].- United Nations Organisation on Drugs and Crime (UNODC), The role of recruitment fees and abusive and fraudulent recruitment practices of recruitment agencies in trafficking in persons, Vienna 2015[35].

3.1.5 The role of immigration services

To address recruitment for THB for labour exploitation, immigration services could:

- **Second Immigration Liaison Officers (ILOs):** ILOs can contribute to the fight against THB for labour exploitation. ILOs are representatives of the immigration service of an EU member state. They are posted abroad in order to establish and maintain contacts with the authorities of the host country with a view to contributing to the return of irregular immigrants, the prevention and combating of irregular immigration as well as the management of legal migration. In this capacity, the ILOs are in a position to help prevent recruitment (for example through leaflets, trainings, presentations and close cooperation with local authorities) for THB for labour exploitation in source and transit countries.

3.1.6 The role of embassies

To prevent the recruitment of victims of THB for labour exploitation, embassies could:

- **Report trends and signs of abusive situations and / or trafficking methods:** Embassies could report signs of THB for labour exploitation to either the authorities in their host country or to law enforcement agencies in their own country, depending on what is most relevant in the specific case, in order to help the fight against THB for labour exploitation and collect information on trends and signs of such THB. Examples of signs that embassies may recognise are given in 3.2.7.

3.2 Entry and identity as part of the process of THB for labour exploitation

Introduction:

Embassies and consulates are often the first port of call for a person applying for a visa. Embassies usually have the authority to decide about routine applications for three-month Schengen visa. More complicated cases would be referred to the immigration service in the capital. Requests for longer stay are a national responsibility and would also be referred to the capital for a decision. For migrant workers from third countries, the procedure to obtain a work visa is somewhat more elaborate. The company wanting to fill a vacancy with a worker from a third country has to apply for a working permit first. Once the working permit and the associated residence permit are in order, the visa is likely to be issued almost automatically by the embassy.

Immigration services play a central role in the whole process. In the end, they decide about residence permits (temporary or permanent) to their country. This makes it possible for immigration services to deploy preventative administrative instruments and to create obstacles to counter THB. Immigration services are in a position to refuse or withdraw residence permits if the applicant does not or no longer meet the requirements of a purpose of stay. Entry can thus form a significant barrier to THB. Immigration services also have an important task in promptly identifying and passing on signs of THB for labour exploitation to the investigative authorities.

Detecting THB for labour exploitation when victims actually enter the country can be difficult. The exploitation has usually not taken place yet, so the victim may not be aware of what awaits them at the other side of the border. The victim may well have been promised a nice job and may therefore be making the journey willingly. But there are things that can be done at the border. Entry and exit checks

[34] ILO 2015a.

[35] UNODC 2015.

offer an opportunity for prevention, detection, identification and interviews of possible victims and for collecting information that can be used in a criminal investigation.

Victims sometimes enter the country using legal methods, sometimes using illegal methods. If illegal methods are detected, the border guards are more likely to check for signs of a criminal offence, such as THB for labour exploitation, as individuals entering the country illegally are thought to be at a higher risk of exploitation than those entering legally. Refusing entry is possible in some cases; however, refusing an EU-national on welfare grounds is not permitted within the EU.

Finally, checking the identity of people at the border and at workplaces could also lead to clues about THB for labour exploitation, for example when forged documents are found.

3.2.1 Multidisciplinary and cross-border cooperation

The organisations involved in decisions on immigration could:

- **Check information with their embassies in the source countries of migrant workers:** Organisations that are involved in issuing work or residence permits to migrant workers could check the information provided by the companies who need these workers, such as the personal data and background of the person, with the embassy in the country of origin of the workers, to make certain that this information is correct.

3.2.2 The role of police forces and other criminal investigation services

When investigating how victims entered the country and which identity they used, police forces (with the help of border forces) could:

- **Examine the travel arrangements:** investigators will want to look at how, with whom and when the victims travelled to the country, who helped them, who they contacted first, what was paid and who was in possession of the travel documents.

3.2.3 The role of labour, social, health and fisheries inspectorates

When it comes to entry and identity, inspectorates could:

- **Look for forged documents during inspections:** Labour inspectors who have the power to identify any person who is present at a workplace could be trained to identify forged documents. Forged documents detected in workplace situations may be an indicator of THB for labour exploitation. The training could be provided by the border guards or police.

EXAMPLE

Training on forged document for labour inspectors, Belgium

Labour inspectors of the specialised units in Belgium dealing with irregular labour and labour exploitation cases received a training organised by the police on how to recognise forged identity documents, so that they can detect presumably false identities, which can be an indicator of THB.

3.2.4 The role of border forces

Regarding entry and identity, border guards could:

- **Establish risk profiles to try and identify cases of THB for labour exploitation:** Risk profiles can help border guards to identify possible victims of THB and possible traffickers. Risk profiles of certain nationalities already exist. Border guards could consider trying to establish risk profiles of possible victims of THB for labour exploitation.

EXAMPLE

The Frontex EU Risk Profiles Handbook 2014

The Frontex EU Risk Profiles Handbook 2014 is a collection of risk profiles of potential victims from different parts of the world and traffickers who bring them to Europe. By identifying specific profiles of traffickers it aims to increase detections and the consequent dismantling of criminal groups. The handbook does not contain a risk profile of victims of THB for labour exploitation, but could serve as an example of what a risk profile could contain. Border forces who are interested in this handbook can contact Frontex.

- **Look for forged documents:** Border guards could examine if documents are forged, and if so, can seize them for the purpose of gathering information, amongst other things on the trafficking network. It may also enable border guards to interview those travelling, as forged documents are proof of a criminal offence and they may make arrangements to refuse entry to those entering on a forged document.
- **Develop and share expertise on forged documents:** As forged documents can be an indication of THB for labour exploitation, border guards could develop expertise on recognising those documents and could share that expertise with relevant partners such as the police.
- **Check the paperwork of seamen:** THB for labour exploitation on ships (both at sea and inland shipping vessels) is a phenomenon about which not much is known yet. In order to be able to detect THB for labour exploitation on ships, border guards need to know what kind of papers seamen need[36]. When arriving at an air border with the purpose of entering a vessel as a merchant seaman, the following documents are required:
  - A valid seaman's identity document / Musterbook (there are exemptions);
  - A valid job contract assigning the seaman to a specific vessel or vessels;
  - A Maritime Diploma;
  - Valid documents of compliance for the specific function stated in the job contract (for example an officers license or sailing permit from the home country);
  - An endorsement for the flag state of the assigned vessel;
  - A Visa C type for merchant seaman and an OK to board.

  If border guards are aware of these requirements, they may be able to detect incorrect or incomplete documents, which could be a sign of THB for labour exploitation. Since seaman often arrive at the airport and then travel to the harbour to board their ship, border guards at both air and sea borders need to be aware of the paperwork required.

  All information regarding the status of the vessel the seaman is going to sign on to is found on board of the vessel or trough contact with the local Port state control[37]. They can provide border guards with a status report of the vessel, giving the border guards an indication if the seaman is legitimately signing on to the vessel or abusing his special status. The status report indicates if the vessel is still seaworthy.

[36] Applicable rules and regulations of the International Maritime Organization (IMO) can be found in the following documents: 'Standards of training, certification and watchkeeping (STCW)' 1995 / 2010, and the 'Safety of life at sea (SOLAS)'. Furthermore, rules on labour conditions can be found in the 'Maritime labour convention (MLC)', Geneva 2006).

[37] According to the IMO website: "Port State Control (PSC) is the inspection of foreign ships in national ports to verify that the condition of the ship and its equipment comply with the requirements of international regulations and that the ship is manned and operated in compliance with these rules", see http://www.imo.org/blast/mainframe.asp?topic_id=159.

EXAMPLE

Exploitation at the maritime border, the Netherlands

In the Netherlands, exploitation in the maritime sector seems to be on the increase. In such cases, cheap workers are often brought into the Schengen area, pretending to be merchant seaman and thereby avoiding the obligation to have a working permit through the Strasbourg Treaty of 1977. Shipbrokers use this route to bring a very cheap workforce into the Schengen area. Often these people are underpaid and forced to work in terrible conditions.

In one particular case, border guards were tasked by the maritime intelligence room to perform an extensive border check on two vessels under Russian flag that had arrived in the harbour of Scheveningen, near The Hague. The vessels sailed straight from Panama to the port of Scheveningen and spent more than two weeks at sea. While performing the check, the border guards noticed that the crew was nervous and uncooperative. The crew, which turned out to be victims, could not show job contracts nor the seaman identification documents that are needed to be able to work as a merchant seaman. Also, they did not know who the owner of the vessels was, they stated they had no permission to supply the vessel with food, which meant they had lived on cake and water during their two-week journey, and they had not been paid for months. The vessels were over-manned, which resulted in the victims having to share beds.

Furthermore, the vessels had changed their flag state from Russia to Lithuania but they were not certified to sail under the latter flag. Essential ship security certificates were not on board, like the certificate of registry and a minimal safe manning certificate. The victims had no endorsements for the Lithuanian flag, which meant they could not sail under this flag either.

Partners involved in the cooperation and their roles:

- Royal Netherlands Marechaussee: acting as border guards and enforcing the Rules of the International Maritime Organisation and the Schengen border code.
- Labour Inspectorate: inspecting the vessels and the conditions under which the crew was working.

What makes this case successful:

Extensive knowledge of the applicable rules and regulations in the maritime sector ensured not only that the crew were quickly identified as victims of THB for labour exploitation, but also that the Lithuanian authorities were notified and could immediately share the information that the vessels and crew were not allowed to sail under their flag, making it easier to protect the victims.

- **Examine luggage, money and clothing:** When a third-country national arrives at an airport in the Schengen area, border guards could look for any specific items and / or clothes that the possible victim has with him / her for the purpose of travel, as well as whether he / she has sufficient funds to support him / herself while abroad. A lack of luggage and / or money may be a sign of THB for labour exploitation.
- **Pay attention to the physical appearance:** When a third-country national arrives at an airport in the Schengen area,border guards could pay attention if victims look well-taken care of or malnourished, and if they speak coherently.
- **Pay attention to travel companions:** for example, an older non-related male accompanying men/ women that seem to be afraid of him.
- **Take fingerprints:** When a third-country national arrives at an airport in the Schengen area, border guards take fingerprints of those crossing a border illegally, to see whether their identity is known in fingerprint databases and to ensure protection of victims when traffickers try to let them enter a country using a false identity.

- **Interview potential victims:** when border guards have the authority to investigate trafficking, they can interview (potential) victims to determine if they have any knowledge of:
  - the purpose of their journey or their destination,
  - their contact person upon arrival,
  - their employer or
  - the country's language in terms of working.

This interview is particularly important as it's often the victim's first chance of contact with someone other than the trafficker.

EXAMPLE

PEGASUS model for interviewing potential victims, Frontex

Frontex uses the PEGASUS model to guide a border guard through a logical and effective interview of a (potential) victim of THB. PEGASUS is an acronym that stands for the seven steps the model consists of. It means

- Presentation (start of the interview),
- Explain the here and now situation,
- Gather information,
- Assess the situation by updating the information,
- Settle with the (potential) victim on what further steps to take,
- Undertake possible further steps (depending on the local border guard situation) and
- Settle on the follow-up (closing of the interview).

For more information, please see Anti-trafficking training for border guards published by Frontex[38].

- **Ask asylum seekers questions:** Border guards could ask asylum seekers questions to determine whether they have been a victim of THB for labour exploitation prior to coming to the country or whether the traffickers have told them to apply for asylum in order to be able to enter the country legally. They could also warn asylum seekers about the risks they may run of becoming a victim, since they do not have a residence permit yet, may have incurred debts to pay for their journey, may not speak the language, and so on
- **Respect the rights of migrants:** When aiming to prevent THB for labour exploitation upon entry, it is important to stop the trafficker without harming the migrant and his / her rights.

Further reading

- Frontex, Handbook on risk profiles on trafficking in human beings, Luxembourg: Publications Office of the European Union, 2014[39].
- Frontex, VEGA children handbook, Luxembourg: Publications Office of the European Union 2015[40].

3.2.5 The role of immigration services

Regarding entry and identity, immigration services could:

- **Establish specialised units and / or staff:** Having specialised units within immigration services with the relevant skills could be very useful and lead to THB issues being handled better. It increases understanding of the signs of this crime and may be helpful in improving detection of victims and getting the perpetrators prosecuted.

[38] Frontex 2012.

[39] Frontex 2014.

[40] Frontex 2015.

EXAMPLE

Anti-THB Unit of the Immigration and Borders Service, Portugal

In Portugal the Immigration and Borders Service (SEF) created an Anti-THB Unit. This body was established to combat THB at a large scale and differs from other EU migration services. It has the ability to proactively detect potential victims in the criminal pre-investigation stage. This means that victims are not yet confirmed as victims, but there are strong indications that they might be. The process of detecting victims always takes place in close cooperation with one of the four regional multidisciplinary teams. Interventions can be initiated by the Anti-THB Unit, which then liaises with a multidisciplinary team (EME) or the Judicial Police (PJ).

The main tasks of the Anti-THB Unit of the SEF are:
- To proactively collect evidence, undertake analysis and detect victims, coordinating its activities closely with the prosecution service;
- To collect, centralise, compile, analyse and disseminate data and information on the phenomenon of THB;
- To assist from a technical point of view the activities of other units of the SEF in combating THB;
- To provide training in the area of THB, both internally and externally;
- To follow up the partnerships and protocols established between the SEF and the various public and private entities working to combat THB.

EXAMPLE

Specialised units for unaccompanied minors, Norway

Norway has specialised units that deal with the entry of unaccompanied minors. They have specialised interview questions and perform standard X-rays to check the age of the minors.

- **Pay attention to signs of THB for labour exploitation during asylum procedures:** See above under 3.2.4 The role of border forces for details.
- **Develop clear regulations for au pairs:** Au pairs can be extremely vulnerable, seeing as it is far less expensive (only living expenses are covered) than formal child care, a nanny or employing a health care professional for a sick relative. In order to prevent exploitation of au pairs, clear regulations may be needed. For example, immigration services could deny permits for acquiring a new au pair to citizens who have been found to exploit au pairs.

EXAMPLE

Tightening the au pair programme, Norway

In 2013, Norwegian authorities tightened the regulation of the au pair program in order to prevent THB for labour exploitation. Like in other countries, Norway's au pair program is aimed at giving its participants a chance to learn the national language and gain insight into the country's culture. Au pairs live with host families who are supposed to cover their living expenses, pay for Norwegian lessons and offer a small income in return for a maximum of 30 hours a week of housework.

Unfortunately, some au pairs in Norway, for instance those from the Philippines, are put to work performing household tasks, working long hours and receiving a pittance. Norwegian citizens who abuse the au pair program will be placed in quarantine that forbids them from acquiring a new au pair for a certain period of time.

3.2.6 The role of NGOs

Regarding entry and identity, NGOs could:

- **Share knowledge of the victim's perspective with relevant organisations such as border forces:** Body language may for example be interpreted differently in the country of destination. As part of the exchange, ethnic profiling could be discussed, to prevent ethnic profiling and THB become conflated. Knowledge of the victim's perspective could improve awareness and may increase detection rates.

3.2.7 The role of ministries and embassies

In order to prevent migrant workers becoming victims of THB for labour exploitation, ministries of Foreign Affairs, embassies and consulates could:

- **Develop guidelines on how to address THB for labour exploitation:** Since victims of THB for labour exploitation may come from several EU and / or third countries, ministries of Foreign Affairs, in cooperation with other relevant ministries, could consider drawing up guidelines on how their embassies and consulates can address THB for labour exploitation, for example during the visa process, through awareness and training for staff, provision of information to potential migrant workers and visa applicants, distribution of a list of indicators and risk profiles to staff and sharing of knowledge and experience through an intranet site, differentiating between EU and third countries and between more and less prevalent source countries of victims.
- **Inform potential migrant workers and visa applicants about their rights:** Embassies and consulates could make sure that there is information available to potential migrant workers about living and working in their country, including labour rights and the risks of THB for labour exploitation and where to turn when they encounter problems. This information could for example be distributed through information meetings, social media, apps, videos, brochures or posters.
- **Increase the awareness of all embassy and consular staff:** all relevant members of the staff of embassies and consulates, and especially frontline officers, in important source countries of victims of THB for labour exploitation could be made aware of the means, trends and ways of operating of human traffickers and of the signs of THB for labour exploitation they might be able to pick up. Organisations like law enforcement agencies and NGOs could provide the necessary expertise for this.
- **Provide training to consular staff responsible for visa applications:** consular staff responsible for processing visa applications could be provided with training on how to recognise signs of THB for labour exploitation, where to report them and how to handle the visa applications involved.
- **Use indicators and risk profiles to look for signs of fraud and THB for labour exploitation during the visa process:** Embassies could use a list of indicators and risk profiles in order to detect signs of THB for labour exploitation at an early stage. The ministry of Foreign Affairs could also set up an intranet site where embassies and consulates could share knowledge and experience on for example the modus operandi of traffickers, so that other embassies and consulates will be able to recognise those too. The information provided could for example explain how to recognise forged documents.
- **Check for previously refused visa applications:** If visa applications for the same migrant workers or involving the same company or sponsor have been refused before, it may be worthwhile to find out if that was because of suspicions of THB.
- **Check whether the applicants' reference (sponsor) has been used frequently by other visa applicants:** If this is the case, this could point towards an avenue for THB for labour exploitation or migrant smuggling.
- **Check non-routine visa applications, preferably also through face-to-face interviews:** Consular staff could check applications that are out of the ordinary or that correspond to a certain risk profile thoroughly to look for attempts by traffickers to circumvent migration procedures. During an interview, consular staff could look for signs that the applicant is being coached through the process. Processing

applications for work visa involves other agencies, because getting a work permit is also part of the process. As more agencies are involved, it is all the more important to keep each other fully informed, to avoid traffickers making use of any cracks in the system.

- **Carry out interviews with domestic staff of diplomatic posts:** Domestic workers in diplomatic households brought in from outside the EU may be vulnerable to exploitation. It is therefore important to put special procedures in place to protect this vulnerable group, starting with the visa procedure but also during their stay.

EXAMPLE

Prevention of THB among domestic staff in diplomatic households, Austria

As home to a large diplomatic community, Austria has put a particular emphasis on preventing THB among private domestic staff in diplomatic households. The Federal Ministry for Europe, Integration and Foreign Affairs has introduced a number of measures and regularly communicates its policy to diplomatic missions and international organisations. An event for domestic workers in diplomatic households was organised to inform them about their basic rights with respect to wages, working hours, insurance and entitlement to holidays as well as legal options available to them. The comprehensive policy also includes obligatory personal interviews at the Ministry on the occasion of collection of yearly extension of the legitimation card (official identity card).

Furthermore, the Ministry offers training to diplomatic and consular staff on THB, including prevention of exploitation of domestic staff in diplomatic households, as part of the training curricula for young diplomats (obligatory) and in the framework of the annual consular conference (voluntary).

- **Suspend the issuing of visa if there may be a risk of THB for labour exploitation:** If embassies or immigration services come across signs of THB for labour exploitation during the visa process and they suspect the applicant might become a victim of THB for labour exploitation if the visa is granted, the application could be refused. If the signs involve a case in which work permits have been applied for, it may be useful to inform the organisation responsible for issuing work permits, so it can also take this into account.

EXAMPLE

Suspension of issuing of permits, Cyprus

Cyprus has suspended the issuing of permits to Vietnamese citizens to work as domestic workers in Cyprus, until the Vietnamese authorities provide the Cypriot authorities with an approved list of authorised private employment agencies, since it was considered that Vietnamese citizens were at risk of exploitation from unauthorised employment agencies or independent agents in Vietnam.

As part of a multidisciplinary approach, embassies and consulates could:

- **Share signs of THB with the relevant authorities:** If embassies come across signs of THB for labour exploitation during the visa process, it is important that those are shared with the authorities in the host country and/or the authorities in their own country. Depending on the circumstances of the case, the information could be shared with the immigration service, the labour inspectorate and/or the criminal investigation service responsible. This could lead to inspections of the companies involved and even criminal investigations.

EXAMPLE

Exploitation of Philippine sailors on inland vessels, the Netherlands

Almost 15.000 Philippine sailors are currently working on Dutch flagged ships. Working on board Dutch ships generally offers a great opportunity for these sailors, because of the decent salaries, good working conditions and career prospects. An exception to this positive state of affairs is the case of “Shipping Crew”, a company consisting of a Netherlands-based parent company and a Philippines-based subsidiary. The case is still before the court in both countries so the outcome of the trials cannot be prejudged. The company in question owns ships and recruits sailors for inland shipping in the Netherlands. The recruitment is being done through its local manning agency in the Philippines. The sailors all signed contracts with the Philippines-based recruitment agency. The Dutch parent company would then apply for work and residence permits in the Netherlands. Many of the sailors would go and work on inland vessels owned by the Dutch parent company itself, others would be employed on other inland vessels through the Dutch company.

When applying for a visa at the embassy, sailors are required to submit their contract to be endorsed by the Philippine Overseas Employment Administration (POEA), among others. While dealing with such visa, an embassy official noticed that the salaries on these POEA contracts were far below the Dutch minimum wages. When questioned about these contracts and the minimum wages, the Dutch parent company claimed that the sailors were paid in accordance with Dutch minimum wages and presented (Dutch) contracts with a higher wage. According to the parent company, the salaries mentioned in the Dutch contracts were the real salaries. However, the embassy concluded that they were using two contracts for one and the same sailor. The embassy informed the enforcement agencies in the Netherlands about the signs of exploitation, and that to all appearances the Philippine sailors were being defrauded and exploited.

At the same time in 2011, following up on reports and signs that Philippine seamen working on Dutch ships in inland waterways were being exploited, the maritime unit of the police and the labour inspectorate began a joint investigation, called ‘Cornwall.’ The investigation revealed that some men were indeed working long hours without days off for weeks and even months on end, unable to leave the ship because their passports had been taken. At the centre of the investigation was the Dutch parent company which was suspected of forging applications for labour contracts and residence permits. Upon coordination between the Public Prosecution Service and the Labour Inspectorate in the Netherlands, the Netherlands Embassy in the Philippines and the Philippine Department of Foreign Affairs and the Department of Justice, cases were filed against the officials of the parent company in the Netherlands for THB for labour exploitation. In the Philippines, based on a criminal and administrative investigation, charges for THB, illegal recruitment and fraud were likewise filed against the officials of the local manning agency and the Dutch counterparts (also charged in the Netherlands).

Partners involved in the cooperation and their roles:

- The Netherlands Embassy in the Philippines: detection of signs of trafficking from the visa applications of sailors: coordination between Dutch and Philippine authorities;
- Public Prosecution Service and Inspectorate SZW of the Netherlands: investigation and prosecution of the case;
- Department of Foreign Affairs in the Philippines: official channel for the request for legal assistance;
- Department of Justice of the Philippines: central authority in coordinating requests for legal assistance in the Philippines;

- Philippine Overseas Employment Administration: provision of information on the local manning agency; administrative investigation of the case;
- Philippine Anti-Money Laundering Council: assistance in tracing the money trail of the subsidiary in the Philippines; freezing and forfeiture of assets.

What makes this case successful:
The multi-sectoral approach to this case, involving players from different jurisdictions, was a very complex process but ensured that all angles of the case were dealt with. In the Netherlands, the criminal case against the suspects is still on-going. In the Philippines, administrative sanctions (suspension of license) have been imposed against the local manning agency and a criminal case is still on-going with a case for forfeiture of assets filed. Millions of pesos have been frozen by the Anti-Money Laundering Council. With a goal to set up a trust fund for victims of trafficking in human beings sourced from frozen assets, the Philippines has amended its anti-trafficking and anti-money laundering law, with this case against the parent company and its local manning agent as a model.

Further reading
- Council of the Baltic See States, Handbook for consular and diplomatic staff on how to assist and protect victims of human trafficking, Stockholm 2011[41].

3.3 Residence status of a victim (at the time of THB for labour exploitation)

Introduction
The residence status of a victim of THB for labour exploitation can play an important part in trafficking situations. Traffickers can abuse a lack of legal residency as a way to keep the victim under control, for example by threatening him or her with being forcibly removed from the country. If someone is in the country illegally, this could be a sign of THB for labour exploitation. Traffickers may also abuse legal ways of entering the country to bring in victims.

3.3.1 Multidisciplinary and cross-border cooperation
Regarding the residence status of the victim (at the time of trafficking), migration services, labour inspectorates and NGOs could:
- **Maintain clarity on their distinctive roles:** A combination of irregular migration status and illegal employment may make people vulnerable for trafficking. Cooperation between migration services and labour inspectorates could therefore be useful and improve effectiveness. At the same time, when they carry out combined inspections, a lack of clarity about their respective roles may be detrimental to the identification of victims. For migrants, the differences between types of authorities may not be clear: they may confuse immigration control, labour inspection and the role of the police. As a result, a victim may be reluctant to make contact and report, for fear of expulsion. Therefore, it is important that the aims of a joined inspection are made clear towards the migrants. NGOs could inform the agencies involved why this clarity is important from the migrant's perspective.

[41] CBSS 2011.

EXAMPLE

Multidisciplinary company checks, Denmark

The Danish Agency for International Recruitment and Integration (SIRI) participates in checks of employers and employees during company visits in cooperation with other Danish authorities (e.g. the Working Environment Authority and the Tax Authority) which take place as part of two types of activities called Social Dumping and Joint Authority Effort respectively. SIRI assists the police by checking the alien's residence and work permit and guides employers on the rules accordingly. SIRI does not have the authority to perform inspections on immigration alone, and therefore takes part only in actions where the Danish police participates. If SIRI finds that an alien is employed without the right to work, the Danish police will take over the investigation.

In order to prevent private servants in diplomats' households becoming victims of THB for labour exploitation, the Ministry of Foreign Affairs (MFA), NGOs and the police could join efforts and:

- **Make it obligatory for staff of diplomatic households to come to the MFA in person for a meeting:** The Ministry of Foreign Affairs (MFA) could make issuing permits / visa for staff of diplomats' households conditional on them coming to the MFA in person for a meeting. At these meetings, information leaflets on labour rights and contact details of police and NGOs could be provided.
- **Prepare information leaflets:** NGOs and police could support the MFA in preparing such information leaflets aimed at staff of diplomatic households.
- **Share knowledge of signs of trafficking with relevant MFA staff:** NGOs and police could share their knowledge with the MFA staff involved to increase detection rates.

3.3.2 The role of police forces and other criminal investigation services

When conducting a criminal investigation, police forces and other criminal investigation services could:

- **Examine identity documents:** Investigators could look at identity documents and check which residence status a potential victim has in order to ensure that irregular or seasonal workers can be warned they may be at risk of becoming a victim.
- **Check how the trafficker managed to abuse legal ways of entering the country:** If a victim entered the country using legal means under false pretences, it could be worth finding out how the trafficker was able to achieve this. This could lead to the identification of people who facilitate illegal migration.

3.3.3 The role of labour, social, health and fisheries inspectorates

Regarding the residence status of the victim (at the time of trafficking), inspectorates could:

- **Check the worker's residence status:** During inspections, inspectors could check the residence status of the workers present. If their residence status is irregular, this could be a sign of THB for labour exploitation. If they are potential victims, the workers could be referred to a shelter to regularise their residence status.
- **Check whether migrant workers have a right to work in the country:** Labour inspectors may have a role in identifying whether migrant workers have a right to work in the country they have moved to. For example, the employers records may show whether the employers have sought confirmation that the workers are legally entitled to be employed in the destination country. This may identify whether their employer has operated in compliance with immigration laws in the destination country.
  Where false documents are identified, or where the workers are identified as not having the correct employment status, they may not be aware that they have breached the immigration laws of the country they migrated to. They may have been deceived by their recruiter and / or employer, who may be using that ignorance to facilitate exploitation of those workers. In such circumstances liaison with border guards and / or immigration officials at an early stage of an inspection could assist to determine whether workers identified as illegally employed may actually be victims, and should be treated as such, and assisted, whilst the recruiter and / or employer is investigated for immigration and THB for labour exploitation offences.

EXAMPLE

Checks of residence status by labour inspectorates, Belgium

Labour inspectors of the specialised units dealing with irregular labour and labour exploitation cases (see 2.2.2) received a training organised by the police on how to recognise forged identity documents, so that they can detect presumably false identities, which can be a THB-indicator. During their joint inspection visits, police and labour inspectors check the workers' residence status. Workers finding themselves in an irregular residence status who are considered as potential victims are referred to a shelter, either by the labour inspectors or by the police, so that their irregular residence status can be regularised during the criminal procedure that will be started.

3.3.4 The role of local governments (municipalities) and / or regional governments

Regarding the residence status of the victim, local governments (municipalities) and / or regional governments could:

- **Check for signs of THB for labour exploitation when issuing a residence permit:** In some countries the local aliens authorities (part of the local government) are the organisations responsible for issuing residence permits. When issuing these permits, they could look for signs of potential victims of THB for labour exploitation.

3.4 Housing of victims during THB for labour exploitation

Traffickers often house victims of trafficking in human beings for labour exploitation in awful circumstances. This housing is often overcrowded; the victims may have to share a room with several other people. They may have to sleep on a mattress on the floor, in buildings that are filthy and / or where there is a lack of basic needs such as a shower and a toilet. In some cases, victims have to sleep in locations that were not intended for habitation, such as sheds or the cabins of trucks. Victims may be obliged to pay high rents for their accommodation. The conditions under which people are housed may therefore point towards THB for labour exploitation.

3.4.1 Multidisciplinary and cross-border cooperation

When it comes to housing conditions, the relevant public and private organisations could:

- **Look out for signs of THB for labour exploitation during housing inspections:** In some countries, local governments are responsible for housing inspections. During these inspections, inspectors could come across signs of THB for labour exploitation, such as overcrowding. The housing inspections could take place in a multidisciplinary way, for example in cooperation with the fire brigade, sanitary services, the police and / or (private) housing companies. Through these housing inspections, local governments and / or the other organisations involved could come across a lot of information that may be relevant to law enforcement agencies investigating THB.
- **Look out for signs of overcrowding or poor housing conditions during a routine patrol or when providing routine services:** Overcrowding or poor housing conditions may also be detected by organisations during routine activities such as foot patrols or the provision of services, for example by police on foot patrol, a housing association or a local government carrying out maintenance on rented housing, social welfare officials conducting home visits or electricity and television mechanics carrying out repairs.

EXAMPLE

Operation Pheasant, Fenland District Council, UK

This example concerns people, mainly from Eastern Europe, who are recruited in their home countries with false promises of getting a good job in England. The recruitment targets vulnerable people, who may be uneducated and / or single people (including single mothers) and all of whom are unemployed. When they arrive in Wisbech, victims are brought to shared overcrowded houses and have to pay rent in advance, including a deposit. They are informed that there is no work for one week, but this message is repeated every week until their savings have been exhausted and they get into debt. This increased reliance on the exploiter is known as debt bondage. Victims are moved around to different properties under the control of a 'rent collector', often linked to a rogue property agent and unlicensed gangmasters, to avoid individuals being found. The exploiter takes the passports and encourages the victims to open multiple bank accounts. These bank accounts are used for fraud. Their identities are also used for taking out loans without their knowledge. The living conditions are often unsafe, overcrowded and very poor.

In Operation Pheasant, Fenland District Council, Cambridgeshire Constabulary and partner agencies combined forces in order to tackle these issues via integrated home inspections and supervision activities. The aim was to gather intelligence regarding exploitation, street drinking and rough sleeping, anti-social behaviour, trigger crimes such as shoplifting or assaults, overcrowded housing and / or poor living conditions and smuggling (of cigarettes and alcohol). All of the above may be linked to migrant workers and THB for labour exploitation.

Partners involved in the cooperation:
The partners involved are Fenland District Council, Cambridgeshire Constabulary, Cambridgeshire Fire and Rescue, HM Revenues & Customs, the Gangmasters Licensing Authority and Home Office Immigration Enforcement.

What makes this practice successful:
The strong and effective multi-agency partnership approach has been adopted to meet particular issues of exploitation, modern day slavery, fraud, crime and poor property conditions within private rented housing. Thanks to this cooperation, there has been a change in housing legislation. Operation Pheasant has also influenced the Modern Day Slavery Bill. Due to the multi-agency partnership approach there are coordinated actions, information is shared and duplication of efforts has been reduced. The approach is nationally recognised as a best practice.

- **Look out for victims that have too much deducted from their wages in order to pay for housing:** Depending on national legislation, it may be legal to deduct the cost of housing from the workers' wages. However, when too much is charged for housing, this could be a sign of THB for labour exploitation. Organisations could look out for signs that the amount charged for housing is too high.
- **Check camping sites and vacation parks:** When determining which locations to inspect, organisations could keep in mind that victims may end up living on camping sites and in vacation parks, as such locations are often out of sight of the authorities.
- **Take pictures of the conditions under which the victims were living:** When organisations find a victim of THB for labour exploitation in overcrowded and / or unacceptably poor housing, they could take pictures of the situation they encounter. These pictures may be used to illustrate the poor living conditions of the victims in reports that are subsequently drawn up by for example the labour inspectorate or the police.

3.4.2 The role of police forces and other criminal investigation services

Regarding the housing aspect of THB for labour exploitation, police forces and other criminal investigation services could:

- **Examine the housing arrangements:** Investigators could look at who acted as intermediary for housing, who is the owner, who pays the rent, electricity and water and which other potential victims are living at the same address, on paper as well as in reality.
- **Check the police database for previous incidents:** The police could check their databases to see if any previous incidents have occurred in or nearby the house they are investigating. If they have, this could lead to information like names or phone numbers that might also be relevant to the current trafficking situation.

3.4.3 The role of labour, social, health and fisheries inspectorates

Regarding the housing aspect of THB for labour exploitation, inspectorates could:

- **Liaise with organisations responsible for renting out or regulating accommodation:** It could be useful for labour inspectorates to keep in touch with organisations that are responsible for renting out or regulating housing, since they may have useful information on the housing conditions of workers. This could for example be a local government body that rents out housing or licenses houses occupied by multiple individuals or the fire brigade. It is especially important in those countries where labour inspectorates are not allowed to enter private housing, since workers may also be exploited to carry out work (such as housekeeping) behind the closed doors of a private residence.
- **Identify who the workers pay for their accommodation, whether such charges are deducted from their wages and what the living conditions are like:** Interviews with workers could identify whether the workers had free choice over where to find accommodation, or whether they were directed to a specific housing agency or accommodation owned by their employer and told that use of that accommodation was a condition of their employment. Where evidence of an unsafe gas or electricity supply constituting a fire hazard, overcrowding, unsanitary conditions and excessive accommodation charges is identified, this may indicate that THB for labour exploitation is taking place.

3.4.4 The role of border forces

Regarding the housing aspect of THB for labour exploitation, border forces could:

- **Ask migrant workers entering the country where they intend to live:** For example, if migrant workers do not know where they will live or have not arranged their own housing, this may be a sign of THB for labour exploitation.

3.4.5 The role of local governments (municipalities) and / or regional governments

Regarding the housing aspect of THB for labour exploitation, local governments (municipalities) and / or regional governments could:

- **Inform employees of the municipal register about the signs of THB for labour exploitation:** In some countries, people have to register their address at a municipal office when they are moving to that municipality. The civil servants working at the (registration) desks could come into contact with potential victims of THB for labour exploitation when they come to register, so it is important that they know how they can spot signs and what they can and must do. These signs could include:
  - many young foreign men / women registering the same address as their home (possibly for a short period),
  - men / women always being accompanied by the same man,
  - this man holding their passport and / or
  - the men / women being uncomfortable in his company.
- **Look for signs of THB for labour exploitation when providing social housing to applicants:** Since traffickers could try to use social housing to house their victims, local governments could look out for signs of THB for labour exploitation when providing social housing.
- **Provide relevant information on a certain address to law enforcement agencies investigating THB for labour exploitation:** Information regarding housing that is held by a local government could be of great value to law enforcement agencies. Local governments could therefore decide to share this information with them, if the relevant legislation allows this.

3.4.6 The role of NGOs

Regarding housing of (irregular) immigrants, migrant communities could play a vital role, since they could be the first port of call for trafficked persons seeking help, e.g. when looking for housing. NGOs experienced in THB for labour exploitation could:

- **Identify victims looking for housing:** NGOs and / or migrant communities could identify a victim when they ask for housing and could then support that victim in accessing the referral system.

3.4.7 The role of trade unions

Victims of THB for labour exploitation do not always live in adequate accommodation. In order to check for poor housing conditions of workers, trade unions could:

- **Visit truck drivers on parking lots:** Exploited truck drives are not always paid enough to afford proper lodgings while they are on the road. They sometimes live in their truck and cook their meals inside the cabin or on the parking lot. In order to build up a relationship of trust and maybe gather information on cases of THB for labour exploitation, trade unions could visit these drivers on parking lots for trucks.

EXAMPLE

Trade union support for truck drivers, the Netherlands

A staff member of the trade union FNV started out by meeting foreign truck drivers at the parking lots were they were staying. The FNV contacted them through social media like Facebook and Twitter. It made sure that information was available in languages they could understand. It convinced the truck drivers to cooperate by ensuring them that the aim was to improve their circumstances and conditions of labour and not to take their jobs away. With its findings, the FNV confronted the government agencies and convinced them to pursue the cases. Where needed it arranged cases to be brought to court. The FNV also travelled to Eastern Europe with a reporter of a national newspaper, where they unmasked the employer and user companies as letterbox companies.

- **Be aware of bad housing conditions in inland shipping:** Sailors who work in inland shipping may also live in poor conditions. Trade unions could try to visit these ships when they are moored in a harbour to look for bad living conditions.

Further reading

- International Trade Union Confederation (ITUC), How to Combat Forced Labour and Trafficking, Best practices manual for trade unions, Brussels 2009.

3.5 Work-related aspects of THB for labour exploitation

Decent work, including fair wages and safe working conditions, is what all people aspire to in their working lives. Unfortunately, not all work is decent work. The labour market has a dark side where vulnerable workers are abused to make profits. In the worst cases, these workers fall victim to THB for labour exploitation. Some cases of THB for labour exploitation have a non-organised character, like a small employer employing and exploiting one or a small number of workers. Other cases concern organised THB for labour exploitation, where use may be made of different fraudulent employment statuses, for example bogus self-employed statutes or fictitious posting from other EU countries, in order to create an appearance of legality. Letterbox companies, contractors, subcontractors and temporary employment agencies may also be used to obscure the reality of the labour relations and in some cases to hide THB for labour exploitation. Since exploiting the labour of workers is the purpose of the form of trafficking in human beings that is under discussion here, the work that victims do is a central element of

the process of trafficking and may provide authorities with useful points of departure for any investigations.

In some cases of THB for labour exploitation, the anti-trafficking directive may not be the only EU legislation that is relevant. If it turns out to be too difficult to prove THB for labour exploitation, organisations could still consider imposing sanctions on the suspects under two other directives.

If the case concerns posted workers, the rules of the posting of workers directive[42] apply. A posted worker is an employee who is employed in one EU member state (MS) but sent by his employer on a temporary basis to carry out work in another MS. The aim of the directive is to prevent social dumping, by protecting the rights and working conditions of posted workers. Where a MS has certain minimum terms and conditions of employment, these must also apply to workers posted to that State. These employment conditions may include things such as maximum work periods and minimum rest periods, minimum paid annual leave, minimum rates of pay, equal treatment between men and women and the conditions of hiring out workers, in particular the supply of workers by temporary employment agencies. In the event of failure to comply with the Directive, MS have to take appropriate measures. They could carry out inspections to monitor adherence to the Posting of Workers Directive. MS can exchange information on the posting of workers through the IMI system[43]. The European Commission also established an expert working group[44], which deals with problems arising from the posting of workers and the enforcement of this Directive.

If the case involves the employment of irregular third-country nationals, EU Directive 2009/52/EC[45] applies. This directive prohibits the employment of illegally staying third-country nationals in order to fight illegal immigration. To this end, it lays down minimum common standards on measures and (financial and criminal) sanctions to be applied in the MS against employers who infringe that prohibition.

3.5.1 General information

In order to prevent THB for labour exploitation, organisations could:

- **Inform employers about the rights of employees:** It should be clear to everyone who hires an employee that they should be treated and paid fairly, should not be held in a job against their will, should keep their passports and other identification documents in their possession and that they should be able to report abuse without retaliation. Informing employers about employees' rights may help to reduce serious abuses and exploitation.
- **Focus prevention activities on exploitative working conditions:** Prevention activities could be focused on exploitative working conditions, to prevent them from turning into cases of THB for labour exploitation.
- **Be cautious during government procurement:** Governmental organisations (at the national, regional and local level) could make sure they are cautious during public procurement procedures, to prevent THB for labour exploitation by contracting or subcontracting (foreign) companies[46] (1.1.1 includes an example of how this might work).
- **Be cautious when issuing business licences:** Governmental organisations (at the national, regional and local level) responsible for issuing licences for businesses or business activities such as hotels, restaurants, bars, gambling venues, martial arts matches and building projects, could develop a method to screen the applicants for criminal connections. If the businesses are (suspected to be) involved in criminal activities such as THB, it may be possible to refuse or revoke a licence.
- **Develop a framework for the distinction between THB for labour exploitation and poor working conditions:** It is the employer's duty to provide decent work. However, some employers offer poor

[42] EU Directive 96/71/EC.

[43] http://ec.europa.eu/internal_market/imi-net/about/index_en.htm.

[44] http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32009D0017.

[45] EU Directive 2009/52/EC.

[46] Suggestion taken from FRA 2015.

working conditions and in the worst cases engage in THB for labour exploitation. A clear dividing line between poor employment conditions and THB for labour exploitation has not yet been fully developed. It is nonetheless important to prevent poor working conditions, because if they go unchecked they may provide the ground for more extreme treatment and exploitation of workers to develop. The relevant organisations could try to develop a framework on a national or cross-border level that makes it easier to make a distinction between THB for labour exploitation and poor working conditions. Such a framework may also make it easier to determine if the violations should be handled under for example labour or administrative law or under criminal law.

Further reading

- Klara Skrivankova, Between decent work and forced labour: examining the continuum of exploitation, Joseph Rowntree Foundation, York: Joseph Rowntree Foundation 2010[47].

In order to identify more victims of THB for labour exploitation, organisations could:

- **Develop methods to contact hard-to-reach victims:** For authorities it could be a challenge to reach victims in some risk sectors, because of the nature and context in which the work is performed. These risk sectors often involve high staff turnover due to changes in the workplace (for example in construction work) and seasonal work in agriculture. Domestic servitude in the informal economy is characterised by work in private premises, which labour inspectorates often do not have the power to enter. (The police are able to enter these premises when they suspect a crime has been committed, but they need to get a warrant first. When there is immediate danger to persons or property, they may be allowed to enter and arrange the warrant afterwards). Fighting THB for labour exploitation in diplomatic residences is difficult, because authorities are not allowed to enter them and under international law diplomats are protected from prosecution in the receiving country[48]. In addition to these difficulties in contacting victims, identification of a possible victim is also a challenge because he / she often does not see him- or herself as a victim. For these cases, other methods could be developed, such as
  - rules that staff of diplomatic personnel have to come to the Ministry of Foreign Affairs themselves to pick up their permit (for more information on this, see 3.2.7),
  - awareness campaigns: awareness campaigns may explain to possible victims what exploitation is and may convince victims or people who have seen something to contact the authorities (for more information on awareness campaigns aimed at the general public or vulnerable groups, see 5.1),
  - the use of cultural mediators (for more information, see 4.2) and
  - contacts with (migrant) churches.

EXAMPLE

Domestic servitude case, Slovenia

A 45-year old man was forced to do different types of work for almost 8 years by a group of neighbours. The victim was very vulnerable because he had an alcohol addiction. The neighbours started exploiting him by taking his small unemployment benefit. They subjected him to their will by giving him some food and wine when he did what they told him to do. Five years before his escape, local people informed the police about his captive situation. When the police stopped by to check on his situation, he denied everything because he feared repercussions from the perpetrators. His story ended when the neighbours who held him captive burned him severely. He escaped and after eight hours he reached the place of a man he knew. They decided to go to the police. When the police discovered it might be a case of THB, they called an NGO.

47 Skrivankova 2010.

48 Vienna Convention on Diplomatic Relations, Vienna 1961.

The police, NGO and health care professionals cooperated in order to protect the victim, help him get off his alcohol addiction and recover from his wounds. He managed to testify in court, due to the extensive counselling and protection provided. His neighbours were prosecuted for enslavement for the purpose of servitude. In the end, two men were convicted for violence, but not for THB.

Partners involved in the cooperation:
- Police,
- NGO's and
- health care professionals.

What makes this case successful:
In Slovenia, before this case there was no case of enslavement for the purpose of servitude. The victim recovered successfully and the perpetrators were convicted.

- **Detect signs of THB for labour exploitation through the registration of where people work:** In many countries, people have to register where they work. This provides the government agency responsible for maintaining this registration with an opportunity to detect signs of THB for labour exploitation. The timing of the registration differs per country. For example, when it comes to posted workers, some countries require the employer to submit documents on them before they start to work; in others this can be done when they've already started. Migrant workers who work for an employer that is based in the country itself often also have to register. The government agency responsible can then go through the registration information to look for signs that something may be wrong.

3.5.2 Multidisciplinary and cross-border cooperation

Regarding multidisciplinary and cross-border cooperation in the area of work, organisations could:
- **Conduct multidisciplinary, cross-border and / or simultaneous inspections:** Sometimes it can be useful to carry out multidisciplinary or simultaneous inspections of places of work (involving the labour inspectorate, customs, border force, police and / or social security authorities), for example to uncover cases of bogus self-employment. During multidisciplinary inspections, attention can be paid to several aspects of the employment situation, such as compliance with labour law, social security law or migration law. Since the workplace will be looked at from different angles, this will increase the chance of signs of THB for labour exploitation being picked up. Simultaneous inspections of different locations of the same company will prevent them from warning each other about the inspection.

EXAMPLE

Multidisciplinary inspections, Malta

In Malta, the Employment and Training Corporation (ETC) and the Immigration Police conduct several inspections at workplaces, generally in the construction and hospitality sectors, to ensure regular employment. Any possible indicators of THB will also be looked into.

- **Clarify their roles:** When different enforcement bodies work together (such as the police and labour inspectorate), they need to clarify their responsibilities and powers, so that it is clear beforehand who is able to do what. They could for example clarify who could undertake which activity during a joint inspection, or, if a joint inspection is not possible, which body should inspect first (i.e. sequencing the use of their powers) in order to secure evidence and legitimately be able to share that information with partners.

- **Communicate their joint efforts:** The fact that (multidisciplinary) inspections are being carried out needs to be communicated to the companies and workers, either through the media or in a more targeted way within certain risk sectors. Knowing that companies will be inspected may contribute to prevention, since it may deter some companies from using exploited workers.
- **Submit suspicions of THB for labour exploitation to the police:** In countries where the labour inspectorate does not have the power to carry our criminal investigations, they (and other organisations without investigative powers) will need to submit any suspicions of THB for labour exploitation to an organisation that can, like the police.
- **Work with trade unions to uncover cases of exploitation in shipping, ports, fisheries and inland waterways:** Because of its inherent international character, migration in the shipping, ports, fisheries and inland waterways sector is as old as the sector itself. Trade unions often have information on cases where workers are exploited. The relevant government agencies could cooperate with trade unions to uncover these cases.

Trade unions, other private parties and government agencies could:

- **Cooperate to enforce minimum labour standards and collective labour agreements that apply to both domestic and migrant workers:** In many countries, the enforcement of the labour rights of national workers by private and / or public partners is a fine-tuned mechanism. The cross-border supply of labour and the use of often complex constructions to supply this labour makes it more difficult to enforce these standards. Cooperation between all parties involved is therefore very important.

Trade unions and employers could:

- **Continue concluding binding agreements that define the conditions of labour on ships with crews from different countries:** Trade unions and employers regularly conclude agreements to define the labour conditions on ships with crews from different countries, for instance from both the Netherlands and the Philippines. One collective labour agreement can include different chapters concerning the conditions that suit different groups of workers. These agreements create clarity on the seamen's rights and can help prevent poor working conditions from developing.

3.5.3 The role of police forces and other criminal investigation services

When investigating the work aspects of THB for labour exploitation, investigators could pay attention to:

- work permits,
- forged documents,
- the identities of the people involved,
- the salary agreed,
- if and how the salary was paid, or whether it was systematically withheld,
- if and how transport was arranged,
- whether the provision of accommodation was tied to work and not freely chosen,
- how long and where the work was carried out,
- how the job was obtained,
- if people were forced to work and
- the use of violence or threats to workers and / or their family.

3.5.4 The role of labour, social, health and other inspectorates

The mandates of EU labour inspectorates differ quite substantially from one EU member state to the next, but they share a common basis under ILO Convention No. 81[49]. Article 12 of this Convention provides labour inspectors with certain powers that criminal investigation services do not have, including to freely and without previous notice:

- enter any workplace at any hour of the day or night;
- interrogate, alone or in the presence of witnesses, the employer or the staff of the company on any matters concerning the application of the legal provisions;

[49] ILO Convention concerning Labour Inspection in Industry and Commerce, Geneva 1947.

- require the production of any books, registers or other documents, the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them; and
- take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances being taken or removed for such purpose.

There are a number of things that labour inspectorates can do that could be beneficial to their work in general, including their activities to counteract THB for labour exploitation. Labour inspectorates could:

- **Develop a comprehensive and effective system of inspections:** The FRA recommends this because it deems a lack of monitoring to be the most important institutional risk factor leading to THB for labour exploitation[50].
- **Establish priorities by using risk assessments:** Risk analysis and risk-based supervision are methods which can be used by labour inspectorates to determine which issues deserve the most attention. Where there is a high risk, for example in certain sectors, more inspections could be carried out. An example may be a sector where a lot of foreign labour is being used. This way the inspectorate can use its capacity and resources in a more selective, focused and effective manner.
- **Perform more inspections without notice:** Labour inspections are more effective if they are carried out without notice. Where there are high risks or notorious violators, inspections may need to be carried out more often.
- **Monitor letterbox companies:** Some companies delocalise their business in search of a cheaper workforce by creating letterbox companies. The use of letterbox companies makes it more difficult to check if these companies are adhering to the relevant legislation. The inspectorates may therefore wish to pay sufficient attention to these letterbox companies.
- **Ensure adequate implementation and monitoring of the Rome I Regulation:** The Rome I Regulation[51] stipulates that an employee will be covered by the legal conditions of the country in which he/she habitually carries out his/her work in performance of the contract. Inspectorates could monitor businesses that employ non-resident employees, for example in the road transport sector, to ensure that this rule is adequately applied to them.
- **Develop policy on notorious violators:** Notorious offenders are companies or organisations that repeatedly violate labour laws. Inspectorates could be given instruments to firmly tackle notorious offenders, for example by imposing higher penalties and fines.
- **Set up a national contact point:** A central contact point where every citizen, employee or agency could make reports can make the work of labour inspectorates easier. Through this contact point, complaints, reports on accidents or working conditions and signs of illegal labour, fraud or other violations in the social domain could be registered.

When carrying out inspections, labour inspectors could pay attention to:

- **Payroll and company records:** False accounts may be prepared to hide the true wages or number of workers being employed within a business.
- **Contracts of employment:** It is important to examine the contract of employment that has been signed by the worker, and for the reality of the workers situation compared to that contract to be tested by interview. This will assist in the identification of what fees have been charged, for what purpose, and whether the worker has been misled regarding their employment status to facilitate exploitation.
- **Identity documents:** Do the workers have their identity documents, or does the employer keep the workers' identity documents, which could be an indicator of THB for labour exploitation.
- **Self-employed workers:** Bogus self-employment can be used to hide illegal employment or even THB for labour exploitation. Workers may for example be forced to apply for trade licenses in order to appear self-employed, or to register as a member of a cooperative, when they are really employed by a company.

[50] FRA 2015.

[51] EU Regulation (EC) No 593/2008.

- **Posted workers:** Labour inspectors could check if workers have the correct forms to confirm their status as posted workers. They could also check with the sending country through the EU's IMI system whether the employer has correctly complied with the sending country's controls on posted worker regulations. If these things are not in order, this may be a sign of THB for labour exploitation.
- **The complex chain of subcontracted labour:** In some sectors of the economy, such as construction, there is a trend for less direct employment of labour by the main contractor or leading company. Labour is instead supplied by subcontractors and agencies[52]. This chain of subcontracted labour can make it difficult to determine who is responsible for breaches of labour law or even THB for labour exploitation at a specific site.
- **Legal constructions aimed at avoiding legal requirements:** Some companies use shadowy legal constructions to avoid legal requirements and hide the actual employment relations. Since this makes it difficult to determine how, under which conditions and by whom certain services are actually provided, these constructions may be abused for THB for labour exploitation.
- **Differences in treatment:** Sometimes local workers are treated well, whilst migrants are exploited.
- **Violations of labour law:** Identifying violations of labour law can lead to the detection of cases of THB for labour exploitation. So when labour inspectors come across irregularities regarding working hours, pay, health and safety and so on, this should remind them to look for other signs of THB for labour exploitation, such as whether they have been forced to live somewhere, have control over their bank account, and so on.
- **The risk of exploitation in the night shift:** In sectors where the work goes on day and night, like cleaning, sometimes the workers doing the day shift are treated fairly, but those on the night shift are exploited.
- **The risks of isolated work:** In some sectors, exploitation is difficult to identify, since the workers are very isolated. Examples of this are domestic work, au pair work and inland shipping.

Further reading

- The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic Sea region – In brief, Helsinki 2014[53].
- International Labour Organisation, Forced labour and human trafficking: handbook for labour inspectors, Geneva 2008[54].
- Organisation for Security and Co-operation in Europe, Ending Exploitation. Ensuring that Businesses do not Contribute to Trafficking in Human Beings: Duties of States and the Private Sector, Vienna: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna 2014[55].
- Organisation for Security and Co-operation in Europe, How to prevent human trafficking for domestic servitude in diplomatic households and protect private domestic households, Vienna: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna 2014[56].

3.5.5 The role of border forces

When it comes to the aspect of work, border forces could:

- **Interview passengers about their reasons for travel:** Border guards could be trained to ask travellers about the reasons for travelling. When the person travelling is not sure about what kind of job they are going to do or has an unlikely answer, this person may be (or about to become) a victim of THB for labour exploitation.

[52] See also FRA 2015.
[53] HEUNI 2014.
[54] ILO 2008.
[55] OSCE 2014b.
[56] OSCE 2014a.

3.5.6 The role of local governments (municipalities) and / or regional governments

When it comes to the aspect of work, local and / or regional governments could:

- **Look for signs of THB for labour exploitation during inspections of building or environmental permits:** Municipal employees could come across potential victims of THB for labour exploitation during supervision and inspection activities in relation to building or environmental permits, for example on construction sites or in industrial areas. So it is important that they look for signs of THB for labour exploitation and pass them on when they do.
- **Close businesses where THB for labour exploitation has taken place:** In some countries, the mayor or municipal services like the fire brigade or the health and safety inspectorate are able to close businesses where THB has taken place. (In other countries, only a judge can close a business).
- **Provide information about working conditions to workers:** Local governments could play a role in providing information about working conditions and rights to workers.

3.5.7 The role of companies

In order to prevent THB for labour exploitation, companies could:

- **Establish transparent employment relationships:** To establish transparent employment relationships, companies could for example choose to exclude sub-contracting employees, in order to prevent workers being underpaid[57].
- **Adopt a (voluntary or non-binding) code of conduct and / or make commitments to workers' organisations / trade unions:** Such a code of conduct could be sector specific and can include minimum labour standards or procedures for ensuring compliance with standards.
- **Develop guidelines for companies:** Guidelines for companies and employers could help companies which may risk becoming affected by THB. The guidelines could offer information on the consequences of being associated with THB for labour exploitation as a company and information on how to tackle signs of THB for labour exploitation in the supply chain.

EXAMPLE

Managing the risk of hidden forced labour, a guide for companies and employers, Denmark[58]

The Danish Centre against Human Trafficking has prepared guidelines which serve as a quick guide for companies and employers risking to become associated with forced labour and severe labour exploitation. The nature of THB for labour exploitation means it may be hidden, for example in the supply chain. The guide has been prepared in consultation with a number of different stakeholders and is intended as an awareness, business risk management and practical prevention tool. The guide is designed as a practical online tool including checklists, which companies can apply to conduct risk assessment, risk management and prevention. The guide encourages self-regulation and action and provides measures which companies can apply in order to avoid unintentionally being associated with cases of hidden forced labour, which may result in serious reputational damage and police investigations. The online guide is available in both English and Danish.

[57] FRA 2015.

[58] Danish Centre against Human Trafficking 2014.

3.5.8 The role of trade unions

When it comes to the aspect of work, trade unions could:

- **Report signs of THB for labour exploitation to the relevant inspectorate:** When trade unions come across signs of THB for labour exploitation in the course of their work, they could report these signs to the inspectorate responsible and / or the police.

3.5.9 The role of ministries

In order to prevent and fight THB for labour exploitation, ministries could:

- **Draw up covenants or agreements with risk sectors:** Ministries could consider concluding agreements with risk sectors about keeping their supply chains free from THB for labour exploitation.

EXAMPLE

Covenants with business sectors on promoting respect for human rights and the environment in their overseas supply chains, the Netherlands

The Netherlands government commissioned a study (by KPMG) to identify business sectors in which international supply chains potentially pose heightened risks in terms of respect for human rights and labour rights as well as environmental protection. The study identified 13 such sectors. This list includes a variety of sectors including the textile / garment industry, construction, metals, oil and gas, agriculture and food processing. A broad range of risks were taken into account in the analysis including such different issues as child labour, excessive working hours, health hazards, land grabbing and local pollution. The government is in dialogue with these business sectors in the Netherlands with the aim to agree on how to reduce potential risks in their international supply chains, thereby giving concrete effect to their corporate responsibility, in line with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights[59]. A specific agreement has already been reached with Dutch electricity companies on how to deal with their supply chains regarding coal production, where environmental and social concerns are at play. The aim is to reach international corporate social responsibility (ICSR) covenants with at least 10 sectors before 2017. There are good prospects for the covenant with the textile sector to be agreed. The banking sector announced it would seek to conclude an ICSR covenant in 2016, with a focus on human rights and banking.

- **Consider requiring businesses to report on their supply chains:** If businesses would be required to report on their efforts to keep their supply chains free from THB for labour exploitation by publishing a statement on their website, civil society, consumers and investors could monitor if companies are doing enough[60].

EXAMPLE

Transparency in supply chains provision, UK

Section 54 of the UK Modern Slavery Act 2015, the so-called “transparency in supply chains provision”, requires certain organisations to develop a slavery and human trafficking statement each year. This statement should set out what steps organisations have taken to ensure modern slavery is not taking place in their business or supply chains.

[59] UN 2011.

[60] See for something comparable : EU Directive 2014 / 95 / EU.

The measure is designed to create a level playing field between those businesses that act responsibly and those that need to change their policies and practices. After a public consultation, the UK government decided that all commercial organisations carrying on business in the UK with a total turnover of £36m or more per year will be required to complete a statement.

One key purpose of this measure is to prevent modern slavery in organisations and their supply chains. The statements will increase transparency by ensuring the public, consumers, employees and investors know what steps an organisation is taking to tackle modern slavery. Those organisations already taking action can quickly and simply articulate the work already underway and planned. The statement can also help businesses to protect and enhance their reputation and brand. The statement must be published on an organisation's website with a link in a prominent place on the homepage. The UK government has published a document to explain the basic requirements of the legislation and includes advice on what can be included in a slavery and human trafficking statement[61].

Further reading

- Organisation for Security and Co-operation in Europe, Ending Exploitation. Ensuring that Businesses do not Contribute to Trafficking in Human Beings: Duties of States and the Private Sector, Vienna: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna 2014[62].

3.6 Financial aspects of THB for labour exploitation

Since THB for labour exploitation is very profitable, it is a lucrative business for criminals. Human trafficking perpetrators are mainly motivated by financial gains. Legal business structures are often used in THB cases. They are for example used to launder money and commit tax fraud. A more effective use of financial investigations in THB cases is necessary to take away the criminal proceeds, since this will hurt the criminals the most. After all, if THB is no longer profitable, criminals will not be interested in it any more.

3.6.1 The role of police forces and other criminal investigation services

In order for financial investigations to be a success, criminal investigators could:

- **Conduct a financial investigation as part of every investigation into THB for labour exploitation:** Ideally, every investigation into THB for labour exploitation should be accompanied by a financial investigation. Traffickers are motivated by greed, so going after criminal profits will hopefully hit them where it hurts. A financial investigation can be used as a means to investigate the THB offence (follow the money trail to see where it leads) or can be seen as a separate investigation aimed at identifying assets that may be seized.
- **Freeze or seize criminal assets as soon as possible:** Ideally, every investigation into THB for labour exploitation should look for assets to freeze at the start, in order to ensure they can be seized eventually as they cannot be moved or disappear once frozen.

[61] See https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide.

[62] OSCE 2014b.

EXAMPLE

Cooperation between the Criminal Assets Bureau and the Immigration Police, Ireland

The Criminal Assets Bureau of Ireland can work with Immigration Police to seize assets from traffickers acquired through criminal activity. The level of proof necessary is the civil standard of 'balance of probability' rather than the criminal standard of proof of 'beyond reasonable doubt'.

- **Check the assets of family and associates of the suspects:** In order to prevent them from being traced, criminals will often put their assets in the name of a family member or associate. Investigators therefore need to look beyond the criminal's own assets when trying to locate criminal proceeds. In some member states, it is currently not possible to seize criminal assets when they are in someone else's name. However, new EU legislation[63] means that from 4 October 2015 confiscation from a third party should be possible in all member states.
- **Seize cash:** Investigators could seize all amounts of cash for which no reasonable explanation can be provided, if they come across them.
- **Build up expertise on cross-border money flows and underground banking:** In many cases, criminal proceeds are moved to other countries. They may also be removed from standard banking and other financial markets, as a criminal's money may use other financial networks such as bitcoins, which can make it difficult to trace assets. Financial investigators will therefore need expertise on how criminals obtain and move money, including through underground banking, in order to be able to follow the money.
- **Consult the expertise of national and international partners:** When the police are carrying out a financial investigation, they may need the powers and expertise of for example labour inspectorates, the tax authorities or accountants in order to collect and interpret all relevant information and possibly to impose taxes or fines. They may also need their counterparts in the country of origin or destination to provide financial information or to seize assets.
- **Share information with Europol's Focal Point Sustrans:** Europol supports on-going cases of member states in the area of money laundering through this focal point. See Annex 1 for more information.
- **Cooperate with Financial Intelligence Units (FIUs):** FIUs serve as national centers for the receipt of financial intelligence (suspicious transaction / activity reports) and related information in order to fight financial criminal activities, money laundering and terrorism. FIUs can provide useful and timely international cooperation on cases of THB for labour exploitation with their counterparts in other MS, both directly and through the FIU.net Information Exchange System which is in the process of being embedded into Europol's Secure Information Exchange Network Application (SIENA).
- **Use the CARIN network:** The purpose of CARIN (Camden Asset Recovery Inter-Agency Network) is to increase the effectiveness of its members' efforts, on a multi-agency basis, to deprive criminals of their illicit profits. CARIN could, amongst several other things, assist:
  - in locating bank and investment accounts, real estate, companies, cars, boats, aircrafts, through law enforcement or public information;
  - in discovering where and how assets associated with suspects may be hidden or concealed through the use of corporate structures, nominees, trusts, etc;
  - in the process of asking another jurisdiction to freeze or seize assets in the case or investigation;
  - in the process of determining how one can come to an arrangement about repatriating the assets of their value to the government from a jurisdiction that has confiscated and / or liquidated an asset in ones case or investigation.[64]

  CARIN has 68 registered members (54 states and jurisdictions, including all 28 EU Member States, 9 international organisations and 5 regional network secretariats).

[63] EU Directive 2014 / 42 / EU.

[64] For more information about the CARIN-network see https://www.europol.europa.eu/content/camden-asset-recovery-inter-agency-network-carin-leaflet.

- **Approach the national Asset Recovery Offices (ARO) to facilitate the tracing and identification of assets[65]:** National AROs help in depriving criminals from their criminal profits. They identify assets that have been illegally acquired on their territories and facilitate the exchanges of relevant information at European level[66].
- **Improve intelligence collection on organised crime money flows:** Enhancing intelligence on money flows can help to disrupt and deter criminal groups. Money flow intelligence could help to solve complex cases and dismantle criminal organisations.

3.6.2 The role of prosecution services

In order to make sure that THB for labour exploitation does not pay and that victims are properly compensated for their experience, prosecutors could:

- **Confiscate the assets of the trafficker(s) at the earliest possibility:** In order to make sure that trafficker(s) do not get the chance to transfer their assets to a place where the authorities cannot reach them, prosecutors could confiscate them as soon as the case allows it.
- **Ask the judge to recover the trafficker's money and assets:** Prosecutors can ask the judge to deprive the trafficker(s) of the money and assets they earned by exploiting the victims. These assets may then be used to settle any compensation awarded as part of a criminal or civil case.
- **Ask Eurojust for support and advice on identification, seizure and confiscation of suspects' properties:** Eurojust can assist member states to identify, seize and confiscate the assets of suspects and to return those assets from one MS to another.

EXAMPLE

Eurojust assistance to Germany and Bulgaria on seizure of luxury car

In one case, a coordination meeting at Eurojust assisted the German and Bulgarian authorities to exchange information about the seizure and storage costs of a luxury car in Germany belonging to a person convicted in Bulgaria. In a subsequent coordination meeting at Eurojust, an agreement was reached on the sale of the car in Germany and the return to Bulgaria of the money obtained from that sale[67].

- **Pay attention to possible challenges:** Eurojust's Mid-term report on the Implementation of the Eurojust Action Plan against THB 2012-2016 mentions that "[...] in the process of freezing and confiscating assets related to THB, prosecution services could expect the following challenges:
  - proceeds of THB could be quickly transferred out of the country;
  - proceeds of THB could be spent in cash as part of an expensive lifestyle and
  - proceeds of THB could be re-invested in criminal enterprises without being laundered and therefore it could be particularly difficult to identify and confiscate"[68].

3.6.3 The role of labour, social, health and fisheries inspectorates

Regarding financial investigations, inspectorates could:

- **Assess the financial records of a company:** Inspectorates will often need to consider the financial transactions of businesses that they inspect in order to examine issues such as whether workers have received the correct pay. They may have the power to detect, get access to and take copies of relevant data carriers, including electronically accessible carriers. As part of the evidence that they obtain under

[65] Council Decision 2007/845/JHA.

[66] For more information on the AROs, see http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/confiscation-and-asset-recovery/index_en.htm.

[67] Eurojust 2014.

[68] Eurojust 2014.

their inspection powers, labour inspectorates may therefore identify information on the accounts or assets of a business that may help the police carry out a financial investigation into THB for labour exploitation.

- **Calculate the profits made by exploiting workers and seize them during prosecution:** Employers exploiting their workers often make large profits. Calculating the earnings could be a way to seize the assets of perpetrators. The profits made by the perpetrator(s) should be seized as part of the court case.

EXAMPLE

Calculating the illegal profits made by the trafficker, Belgium

In some judicial districts, the Belgian Social Inspectorate is regularly requested by prosecutors to calculate the amount of illegally acquired profits by companies committing social fraud or exploiting their workers. This request is aimed at facilitating the seizure of assets which have been used to commit the crimes or which are proceeds of the crimes, preferably at an early stage of the investigation. The seizure of assets is a measure aimed at confiscating these assets by the criminal judge at the trial that is to be held upon the prosecutor's criminal charging.

Upon such a request, the Social Inspectorate makes a calculation of the gains that the employer has made by illegally employing the workers. These gains consist of non-paid salaries on the one hand and of non-declared and thus non-paid social security contributions on the other hand. Basically the illegally acquired profits will normally be the difference between the legal wages that the employer would have normally paid and the wages that he/she failed to pay on the one hand, and, on the other hand, the social security contributions which would normally have been paid and the contributions that were actually paid. The police can look at the goods, houses and financial assets of the perpetrators. Prosecutors especially request for such calculations to be made when the number of workers involved was high or the length of the periods of employment was considerable, in which cases the magnitude of the illegally acquired gains can be substantial.

Partners involved in the cooperation and their roles

- Prosecutors: request the calculation to be made;
- Social Inspectorate: calculates the wages and social security contributions the trafficker failed to pay;
- Police: investigate which goods and assets the trafficker owns and implement the prosecutor's order to seize these goods and assets, the value of which corresponds to the calculation of the illegal profits made by the trafficker.

What makes this practice successful?

In a number of cases of THB for labour exploitation, this method has been applied successfully. In one judgment, for example, the Criminal Court accepted the indicators revealed by the investigators (a restaurant where foreign workers worked for excessively long hours, received insufficient wages, were employed in bogus statutes, were denied any social protection, with abuse of the vulnerable position of the victim who stayed in the country irregularly) and convicted the perpetrators for THB for labour exploitation with aggravating circumstances. The Social Inspectorate made a calculation of the illegally acquired capital gains, while the police investigated which goods, houses and financial assets the perpetrators possessed. The Court ordered the illegally acquired profits, which amounted to € 117.653, to be confiscated.

- **Cooperate with the social security authorities:** Labour inspectorates also deal with the issue of illegal or undeclared work. For labour inspectorates, it is often useful to check the actual number of workers (on a particular site) against the database of the Social Security Administration. If the number of workers who have been duly registered for social security insurance by their employer and the actual number differ greatly, it may point to the performance of illegal or undeclared work, or even THB for labour exploitation. It also occurs that in cases where workers are being posted, no social security contributions are being paid in the sending country at all. Therefore, information about whether or not workers are registered with the social security authorities can be useful to detect illegal or undeclared work, which could be signs of THB for labour exploitation.

3.6.4 The role of border forces

When it comes to the financial aspects of THB for labour exploitation, border guards could:

- **Seize cash:** Border guards could seize all amounts of cash, for which no reasonable explanation can be provided, if they come across them when performing border-control duties.

3.6.5 The role of tax authorities

When it comes to the financial aspects of THB for labour exploitation, tax authorities could:

- **Look for signs of THB for labour exploitation during checks of the wages administration and inspections of companies:** Tax authorities may come across signs of THB for labour exploitation, for example when they are checking the wages administration for payment of payroll taxes and social security premiums. The wages administration contains information on the hours that have been worked, on wages, other payments and how these have been paid and sometimes on the accommodation of the staff. During visits to or inspections of companies, the tax inspectors can ask the workers about their employment and duties and can establish the identity of the workers by checking their identity cards. This could all lead to signs of THB for labour exploitation, which tax authorities could share with the relevant criminal investigation service.
- **Share information to be used during criminal investigations into THB for labour exploitation:** Tax authorities have a lot of information on for example places of residence, ownership of real estate, cars, motorbikes and ships, income, bank accounts, turnover and personnel of companies and information that has been collected during earlier inspections. They can also compare tax declarations that have been filed with those from other businesses in the same economic sector, to see if the tax declarations are correct. This information may be very useful to the criminal investigators looking into THB for labour exploitation, so tax authorities could consider sharing this information with them.
- **Calculate how much the victim should have been paid and how much the trafficker earned:** Based on testimony of the victim and on other evidence about the hours he / she worked, the tax authorities can calculate how much salary is still owed to the victim. The tax authorities can also calculate how much the traffickers spent on real estate, cars, boats and the costs of living, in order to estimate how much money the trafficker earned in total. These calculations can be of use during the prosecution of the traffickers, to ensure that the assets of the trafficker are seized and the victim is provided with compensation. They can of course also be used to collect the taxes due on the money earned.

3.6.6 The role of companies

It is in the interest of all companies that want to earn a living in an honest, responsible way that efforts are made to prevent and fight THB for labour exploitation. If not, they will face unfair competition, since companies that use the labour of a victim of THB (themselves or somewhere along their supply chain) have an unfair advantage over companies that keep their supply chain clean. Regarding the financial aspects of THB for labour exploitation, companies could:

- **Make use of all available information:** The OSCE recommends that companies use all available information, including internal audits and financial reporting, to identify whether trafficked labour is used at any stage of their local and / or global supply chain[69].

[69] OSCE 2014c.

- **Report suspicious activities:** For example, banks could help to identify THB for labour exploitation when they notice that dozens of people have bank accounts at the same address, even though it would be unlikely that all these people are living there at the same time. Such a notification could be forwarded to the authorities.

Further reading

- Europol, The THB Financial Business model. Assessing the Current State of Knowledge, The Hague 2015[70].
- Organisation for Security and Co-operation in Europe, Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings, Vienna: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna 2014[71].

70 Europol 2015.

71 OSCE 2014c.

Chapter 4
Protection of and assistance to victims of THB for labour exploitation

Introduction

The reason that so much effort is put into fighting and preventing trafficking in human beings is that it is deemed unacceptable for people to undergo THB. Protecting and assisting victims who have been through the horrific experience of THB for labour exploitation is therefore of utmost importance. EU legislation contains quite detailed provisions on the rights of victims of THB. Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims[72] for example determines that member states have to ensure that victims receive assistance before, during and for an appropriate period of time after the conclusion of criminal proceedings. This assistance should include at least standards of living capable of ensuring victims' subsistence through the provision of accommodation and material assistance, medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate. Victims also have the right to police protection and to legal assistance, including to enable them to claim compensation. The directive also provides for special measures for child victims, such as the appointment of a guardian or a representative, if necessary, and access to education.

In addition to the rights provided to victims in the anti-trafficking directive, EU Directive 2004/81[73] grants victims of trafficking who are third-country nationals a "reflection period" to allow victims to make a well-informed decision on whether or not to cooperate with the authorities on the prosecution of the perpetrators. The length of the reflection period is left to the individual EU member states. However, the anti-trafficking Convention of the Council of Europe, which has been ratified by almost all EU member states, provides for a reflection period of at least 30 days[74]. EU Directive 2004/81 also specifies that if the possible victim is willing to cooperate, victims who stay in the country illegally are granted a residence permit of at least six months (although it may be withdrawn at any time if the conditions for the issue of the permit are no longer satisfied). Victims are also entitled to have access to the labour market and, depending on the duration of the stay, the right to pursue vocational training and education. This assistance should allow victims to recover and escape the influence of the perpetrators of the offences.

4.1 Multidisciplinary and cross-border cooperation

Working with victims of THB for labour exploitation requires both an understanding of their experience and a commitment to the protection of their individual rights and personal safety. In order to protect and assist victims of THB for labour exploitation, the organisations responsible could:

- **Enhance a victim-centred approach:** In a victim-centred approach, the victim comes first and the basic needs, privacy, safety, and well-being of the victim are prioritised. In order to realise this, the police, inspectorate, NGOs and other relevant organisations could work together to ensure the needs of the victim are met.

[72] EU Directive 2011/36/EU.

[73] EU Directive 2004/81.

[74] Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw 2005.

- **Use a National Referral Mechanism (NRM):** The establishment of an NRM in all member states is the first action mentioned in the EU anti-trafficking strategy[75]. A national referral mechanism is a comprehensive framework in which the roles and responsibilities of the various organisations are described in order to better identify, refer, protect and assist victims at a national level. Organisations can use this mechanism to understand which other organisations to involve when they come across a victim.
- **Provide adequate protection and assistance to victims:** Protection and assistance to victims needs to be tailored to their needs, particularly the differing needs of men and women. The needs could for example differ in terms of length and level of assistance needed. The organisations involved could realise this by:
  - informing social workers about the issue of THB for labour exploitation;
    assigning a dedicated case worker to facilitate access to protection, support services and benefits. These dedicated contact persons could liaise between the local government, social workers and NGOs on available options, administrative requirements and procedures;
  - creating clear and unambiguous procedures for referral to protection and assistance (as part of the NRM) to make sure that all cases are handled the same way;
  - join forces with research institutes and social workers to research the specific needs of a victim in terms of assistance, for example of male victims, the prevalence and causes of re-trafficking and protection against re-trafficking.
- **Provide support and assistance for male victims of THB for labour exploitation:** The biggest difference between male and female victims may be in whether they are able and willing to speak about their (traumatic) experiences. Men may also feel very responsible to uphold an employment status to provide financial stability for their family. Providing support to male and female victims may therefore require an approach that differs in certain aspects.

EXAMPLE

Men VIA: shelter for male victims of THB, Austria

Until 2014, there were no specific services and shelter available to male victims of THB in Austria. The organisation MEN's Health Centre, supported by the NGO LEFÖ-IBF and financed by the Ministry of Labour, Social Affairs and Consumer Protection, filled the gap by establishing Men VIA, offering specific support for trafficked men, including an emergency shelter for trafficked men.

Partners involved in the cooperation and their roles:

MEN was the responsible association;
- LEFÖ-IBF provided coaching and support;
- "Counselling for MEN" cooperated with psychosocial and legal assistance;
- charity health care centres provided a doctor;
- the police accepted the project as point for referral; and
- the Ministry of Social Affairs offered financial support.

What makes this practice successful?

Identification of men as victims of THB was problematic when police did not yet have a facility they could refer identified male victims to. This problem has now been solved, with police referring male victims to Men VIA. Men VIA offers safe accommodation, health care, and psychosocial assistance during witness questioning and court proceedings.

[75] European Commission 2012.

- **Map specialised physical and psychosocial health care providers:** In cooperation with the relevant healthcare providers, the organisations responsible could set up processes to refer clients to the appropriate health care services. These processes could be drawn up in a protocol which could ensure that all victims are offered assistance equally, without a bias against e.g. men or victims receiving outreach care.
- **Provide support that is empowering to keep the victim in charge, including by fully informing the victim of his / her rights:**
  - by ensuring that they obtain prior informed consent of the victim for any steps to be taken,
  - by making sure the relevant staff have a clear understanding of which services can be provided to a victim, and on which conditions, to be able to manage the expectations of the victim,
  - by making sure that a victim has a full understanding of his / her entitlements to protection and assistance, and gives genuine and ongoing consent to his / her engagement with the anti-trafficking system,
  - by making sure a victim understands the conditions for protection and assistance after the reflection period, and the options for exceptions to conditional support.

Providing shelter to large groups of victims of THB for labour exploitation

Since victims of THB for labour exploitation are often found in large groups, they may be difficult to accommodate in existing shelters. In order to provide support and assistance to large groups of victims, member states could:

- **Develop plans to shelter large groups of victims:**
  The organisation responsible could consider mandating an organisation, for example an NGO, to coordinate the process of protecting and assisting big groups as a project leader, as this could involve many stakeholders. Such a project leader could draw up plans for housing and assisting large groups of victims. These plans may need to refer to:
  - housing,
  - food,
  - psychological and medical assistance, including screening victims for possible traumas,
  - involvement of social services in case of children,
  - security,
  - interpretation,
  - provision of information on victims' rights,
  - things for victims to do, such as reading newspapers and watching dvd's,
  - cooperation between partners such as LEA, NGOs and local authorities, and
  - budget.
- **Agree on the following issues before conducting raids:**
  1. Who will be responsible for financing the assistance of the victims? The municipality where the exploitation took place? The national government? Another party?
  2. How many days, weeks, months of shelter and assistance for victims will be financed?,An evaluation could be planned after the initial period to decide if the assistance needs to be continued.
  3. What will the concrete goals and expectations of the raids be? What are the expectations per organisation involved?
  4. Which organisations will generally be involved in the raids?
  5. What rules on confidentiality, trust and safety apply between the partners?

- **Discuss the following topics about the day of the raid:**
  It must be clear beforehand for all the parties involved what their responsibilities and tasks are. Some topics to discuss to ensure smooth progress of the day are:
  1. What is the composition of the group of victims like? Information about the composition of the group (for example: how many victims; gender; minors; families; nationality; communication languages; sector of exploitation; safety issues; mental and psychical state of the victims etc.) is needed when arranging shelter and assistance.
  2. Where will the victims be taken after the raid? A shelter, hotel or the police station?
  3. How many social workers will be needed to inform victims about their rights and to listen to their needs?
  4. How many interpreters will be needed?
  5. How will the transport from the location to the shelter be organised?

- **Evaluate the protection and assistance offered to the victims:**
  When a group of victims has been provided with shelter and assistance after a raid, the organisations involved could consider carrying out an evaluation of the process. During this evaluation, the following topics could be discussed:
  - Did the services comply with the needs of the victims?
  - What are the results for the victims? Are they in a better situation?
  - Which (safety) risks did we encounter during the process of protection and assistance?
  - How did we cooperate together, could we do things differently?
  - Did we budget too much or too little for housing?
  - What problems did the victims have to cope with and how did we provide a solution?

EXAMPLE

Providing shelter for groups of victims of THB for labour exploitation, the Netherlands

In 2010, the Inspectorate SZW found a group of 40 victims, consisting of men, women and children. It turned out that the regular system of shelters was not equipped to house victims together as a group. Instead, they were taken to a hotel, but this was only a temporary solution since it did not sufficiently meet the needs of the victims and was a costly undertaking.

The NGO CoMensha (which is responsible for arranging shelter for victims of THB) was asked to draft a protocol on providing shelter for large groups of victims. The protocol assigns different responsibilities to the appropriate parties:

- The labour inspectorate will inform CoMensha about their planned inspections ahead of time; 10 days before the inspection will be carried out at the latest.
- CoMensha will arrange housing within the last five days before the inspection takes place.
- CoMensha will arrange transport to take the victims to the shelter, with either the Transport and Support Service of the Custodial Institutions Agency or with the police.
- The labour inspectorate will inform the immigration service so that victims can be granted a reflection period and their social security benefits will be made available.
- Social workers within the shelter or other aid workers will draw up an inventory of victims' needs and organise support accordingly.
- Victims who chose not to make use of shelter housing receive information and aid concerning the judicial procedure, their finances, referrals to health services when needed etc.

Every consultant who operates the helpline of CoMensha is able to organise and coordinate the assistance for a group of victims. For every country of origin, different partner organisations are involved and different activities may be necessary to organise the assistance. The Ministry of Health, Welfare and Sport covers the expenses incurred.

Partners involved in the cooperation and their roles:

CoMensha	Project leader, coordinates the assistance and care in collaboration with the shelters and the Labour Inspectorate.
Labour Inspectorate	Organises the raids and informs Comensha about them in advance.
National Police	Offers reflection period to possible victims.
Immigration and Naturalisation Service	Provides reflection period to possible victims when they have accepted the offer of the police.
Public Prosecutor	Authorises the raids.
Municipality and mayor	Responsible for the provision of security by the police, both during the raid and for the shelter where the victims are housed.
NGO FairWork	Often present during raids with cultural mediators; provides support, e.g. to victims who choose not to go to the shelter but instead want to find a new job.

What makes this practice successful:

Because the division of tasks has been discussed and written down beforehand, every organisation knows what its role is on the day. The cooperation between different disciplines means that attention can be paid to both providing support to the victims and investigating the crime. During the raid, the Inspectorate SZW can focus on the investigation, since they know that shelter for the victims has been arranged by CoMensha.

EXAMPLE

Multidisciplinary cooperation in a reception centre for a large group of victims, United Kingdom

An Organised Criminal Group (OCG) recruits vulnerable adults in Slovakia on the promise of well-paid work and arranges their travel to the UK. There it houses them in squalid houses with no hot water, no heating and dirty conditions. They are found work, often through legitimate recruitment agencies, however their wages are paid into accounts that the OCG have control of and the workers were given very little money. In addition, the OCG claimed state benefits in the workers name, which again they had no control over.

Intelligence sharing protocols were established between UK and Slovakian authorities, via Europol. In April 2015 there was a coordinated enforcement phase of the operation involving four UK police forces. The control centre was in one of the force areas and housed representatives from the Slovakian police and the Europol mobile office, which allowed dynamic checks to be made both against Slovakian police and civil records and Europol databases.

From addresses visited, a total of 29 potential victims were recovered and taken to two multi-agency Reception Centres set up for this case to provide help and support for them whilst trying to obtain evidence against the OCG members.

Partners involved in the cooperation and their roles:
Agencies at the Reception Centre included:

- Police – Managed the Reception Centre and interviewed victims;
- National Crime Agency – Provided specialist victim interviewers and National Referral Mechanism advisor;
- Local Authority – Provided suitable premises and assisted in its management;
- National Health Service – Medical screening of potential victims and providing evidence of physical/medical condition;
- British Red Cross – Provide food, bedding and general humanitarian support to potential victims, helping build trust and confidence
- The Salvation Army – Assessing potential victims wishing to enter the NRM in order to identify suitable accommodation and ongoing support.

What makes this approach successful:
Since 2008, the Multi Agency Reception Centre model for dealing with multiple victims has continuously been developed. Through bringing together all partner agencies, with their areas of expertise, it allows all aspects for the immediate care of victims to be addressed. Each agency can be relied upon to utilise the resources available to it and to prevent any delay in providing support. The model ensures a seamless transition for the victim from their exploited position to the care of those who can assist them. It enables the victim to receive that support in a safe and controlled environment and immediately allows a relationship to be developed with the support providers. This supports a victim-centred approach.

- **Provide specialised legal advice to victims:** Since cases of THB for labour exploitation often involve criminal, migration, labour and civil law, specialisation is needed to be able to provide tailor-made legal advice to victims. In order to be able to assist a victim during legal procedures, lawyers, trade unions and NGOs could:
  - maintain lists of specialised lawyers;
  - have legal staff and volunteers of NGOs and trade unions do the preparatory work of cases. NGOs and trade unions could build up legal expertise through their case load;
  - cooperate with universities to train prospective lawyers, prosecutors and judges. Next to relevant questions of law (for example on non-punishment, means of coercion and consent), this interaction could also include discussions on cultural differences, prejudice and the victim's perspective and how these issues influence each other.

EXAMPLE

An NGO providing legal advice during the criminal case, Greece

Until 2014, there were no specific services and shelter available to male victims of THB in Austria. The victim in Greece is seen as a witness in the criminal case. As a witness, he / she has the right to hire a lawyer to assist with the case. The A21's Legal Aid initiative (operating within the National Referral Mechanism) has a team of qualified and experienced lawyers, trained in a victim-centred approach that will assist the victim free of charge (court fees and wages are covered by the A21 Campaign). If the victim accepts the free legal support, he / she signs a power of attorney to a lawyer from the A21 team. If the victim has returned to his / her home country, A21 can organise the trip back to Greece for the trial, covering the travel expenses, food and accommodation. The lawyer will go through everything related to the testimony in court to prepare the victim for it. A21 will drive the victim to and from the court on trial day and will sit next to the victim during the proceedings. The victim has to take the stand alone to testify.

- **Assist victims to claim an effective remedy (compensation) for the financial losses they have suffered:** Migrant workers who become a victim of THB for labour exploitation have often travelled to the destination country in the hope of finding work that is better paid than the available jobs at home (if any). They may therefore attach great importance to recovering the money they lost through the exploitation. Different organisations could assist victims to obtain a remedy by providing information on their rights and the procedures to follow and by providing access to legal aid. An effective remedy consists of:
  - payment of the appropriate wages according to either the minimum statutory
  - wages or those of the collective labour agreement where applicable,
  - payment of overtime or holiday pay,
  - a proper settlement for housing and travel costs and
  - compensation for emotional damage and injury.

  The EU anti-trafficking directive determines that victims of THB should be given access to "existing schemes of compensation to victims of violent crimes of intent"[76]. Depending on national legislation, victims may be provided with compensation for THB for labour exploitation in a number of ways:
  - In some countries, victims are able to file a request to join the case of the prosecution with a claim for compensation.
  - Prosecutors can claim compensation as part of the criminal case.
  - Victims can pursue a civil claim for compensation against the trafficker(s).
  - Victims may be able to claim compensation from a fund for victims of (violent) crime or a dedicated fund for victims of THB.

  The workers should be able to pursue their effective legal remedy from a sheltered position. If they are not able to stay in the country, the legal position should remain guaranteed, for instance by transferring the litigation rights to a legal representative. The organisations involved in the case could consider sharing the information necessary to obtain the remedy, such as the registration of the wages and working time records.
- **Ensure victims receive the compensation granted:** When the victim succeeds in claiming compensation from the perpetrator, the perpetrator does not always pay the (full amount of the) compensation they owe the victim immediately. Governments could consider developing methods to assist victims in receiving their compensation:
  - by setting up a state compensation fund[77] or
  - by setting up a system for advance payment of compensation.

EXAMPLE

System of advance payment to victims, the Netherlands

Since 2011, the Dutch Criminal Code includes a provision for a system of advance payment to a victim of THB for labour exploitation. If the person convicted has not yet paid the full amount of compensation due under the compensation order eight months after the judgement has become final and conclusive, the government will pay the amount outstanding to the victim. The government will then recover that amount from the perpetrator.

- **Create and/or organise jobs:** Together with the private sector, (local) governments, foundations and NGOs could provide victims with a job. When a victim has a job, he/she may not be as easily convinced by the false promises of another recruiter and fall victim to THB again. See 4.6 for an example of a local government that helps victims to find a job.

[76] EU Directive 2011/36/EU.

[77] FRA 2015.

- **Discuss practices to reach hard to reach victims:** When the relevant agencies meet on a regular basis, and discuss the circumstances under which hard to reach victims work and live, they could exchange information and improve their practices to find hard to reach victims:

EXAMPLE

Technical Board on domestic service, Spain

In Jerez, Andalucía, there is a Technical Board on domestic service, which has the objective of setting labour relations in the sector of domestic service, informing and providing orientation to workers and employers. Partners involved in the cooperation are NGOs (Caritas, CEAIN (Andalucía Acoge), Accem) and migrant associations (AL ADL Pro Inmigrantes, Citizen Platform of Immigrants). In order to find hard to reach victims, the technical board meats regularly to review the living conditions, employers requests done through some of the partner organisations and other labour conditions such as vacation periods or working hours. The technical board has permitted the detection of some cases of THB for labour exploitation and its referral to appropriate protection services since its creation in 2006. The technical board also develops different awareness and sensitization activities around the international day of domestic service (30th of March).

- **Consider developing a Transnational Referral Mechanism:** In order to ensure that assistance to victims continues when they move to another country, member states could agree to set up a Transnational Referral Mechanism (TRM).

A Transnational Referral Mechanism (TRM)

A Transnational Referral Mechanism (TRM) is a co-operative agreement for the cross-border comprehensive assistance and/or transfer of identified or potential trafficked persons. A TRM links all stages of the referral process from the initial screening, through formal identification and assistance, to the voluntary assisted return, the social inclusion, and the civil and criminal proceedings. It is based on the co-operation between governmental institutions, intergovernmental agencies and non-governmental organisations of countries of origin, transit and destination of the assisted trafficked persons. Through the TRM, state actors of different countries fulfil their obligations to promote and protect the human rights of trafficked persons.

For more information, see
ICMPD, Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU, Vienna, 2010[78].
ICMPD, The Way Forward in Establishing Effective Transnational Referral Mechanisms in Trafficking Cases. A Report Based on Experiences in South-Eastern Europe, Vienna, 2012[79].

According to the EU anti-trafficking strategy[80], the Commission will develop a model for an EU Transnational Referral Mechanism.

- **Organise safe return to the country of origin for the victim:** A TRM or bilateral contacts between for example the International Organisation for Migration (IOM) in the country of destination, the

[78] ICMPD 2010.

[79] ICMPD 2012.

[80] European Commission 2012.

immigration services, embassies and NGOs in the country of origin and destination could benefit the victim when he / she wants to return home.
- **Cooperate on keeping in touch with victims who have returned home:** Multidisciplinary cooperation across borders is essential when a victim decides to go home. In this situation, the assistance of the authorities, shelters and / or NGOs in their home country will be needed when detectives need to interview the victim, when the victim wants and / or needs to testify in court, to make sure that the victim can claim and / or receive any compensation they may be entitled to and to protect the victim and possible family members when they are being threatened by the traffickers. The authorities in the country of the traffickers can be of assistance when search warrants need to be executed or documents found. A Transnational Referral Mechanism (TRM) could provide the framework for such cross-border cooperation regarding victims.

4.2 The role of police forces and other criminal investigation services

In order to safeguard the protection of and assistance to a victim of THB for labour exploitation, police forces and / or other criminal investigation services could:
- **Invite social workers or NGOs to be present during an action day:** During an action day, it may be helpful to have a social worker or a representative of an NGO, such as a cultural mediator, present. This social worker can explain to the victim what is happening, why they are considered to be a victim and what their rights are. He / she may also be able to assist in the communication between the investigators or inspectors and the victim and thereby help to build trust between them.
- **Recognise NGOs as a point of contact for the victim:** It is important that at each stage of the legal proceedings, including investigation and hearings, NGOs that provide assistance to victims are recognised as an important point of contact for the victim, if that is what the victim wants. This may facilitate the victim's involvement and cooperation in the judicial system.
- **Provide NGOs with contact details:** NGOs could be provided with the name of a contact person of the investigating or prosecuting party, in order to quickly activate safety procedures available for victims and witnesses when there is a risk of reprisals.
- **Have a victim care and witness care strategy:** Such a strategy could recognise that a victim could have different needs, whether that is for example more medical assistance, emotional support or financial assistance. By planning ahead, all eventualities may be addressed in an appropriate and timely manner. See 4.1 for more information about planning for victim care.
- **Screen the victims:** When a large group of victims has been found, it may be an idea to screen the victims in order to focus the investigation on the worst cases. They will provide the best chance of a conviction. Do keep in mind that these cases may be more difficult, since these victims may be too traumatised to provide a statement. Even if the investigation focuses mainly on some victims, the other victims also need to be interviewed and should be provided with the same support and assistance. For more information on large groups of victims, see 4.1.
- **Develop a way to distinguish between traffickers and victims:** Sometimes it can be difficult to distinguish between traffickers and victims, especially if they are living together in similar circumstances. One criterion that might be used to determine whether someone is a trafficker or a victim, is to find out if the person assisting the traffickers in exploiting the (other) victims was permanently under the control of the traffickers or had ample opportunity to leave, for example because they lived separately.
- **Consider that when a victim has left the trafficking situation, assisting in the case against the trafficker may not be their priority:** This could be the case due to a number of factors. Some victims may:
  - Be traumatised
  - Fear the perpetrator: A victim may fear countermeasures from the traffickers, for example because they threatened them or their family. It is therefore important to understand the nature of the relationship between the victim and the traffickers.
  - Fear (cooperating with) law enforcement: A victim may be afraid of the authorities because of their illegal status or because they have previously had a bad experience with authorities. Many of the

victims are made to believe they are performing a crime and will be punished by authorities. They may also fear losing their jobs or any payments they are due if they talk to law enforcement.
- Do not identify themselves as a victim: Victims do not always see themselves as a victim, for example because the working conditions and payment are not that bad compared to those in their country of origin.

- **Try to make a victim feel safe again:** Trauma and fear of the traffickers could mean that a victim is not prepared or able to disclose everything they went through straight away and that their story may change over time. When it comes to prosecuting the traffickers, these issues can form significant obstacles. Making a victim feel safe again and helping them understand their situation is important. This may enable them to move forward and will hopefully convince them to press charges against their traffickers. In order to tackle these obstacles, police forces and other criminal investigation services could:
  - **Build the case independent of the victim:**
    - **Collect as much evidence as possible before talking to a victim:** If investigators are able to prove (most of) the case without a statement from a victim, they may be able to convince the victim that his/her statement will not be made in vain and will not put him/her in danger. Ofcourse, getting a conviction without a statement from a victim is only possible in countries where the prosecutor can bring a case on his/her own initiative.
    - **Arrest the suspects before talking to the victim:** If there is enough evidence, the suspected traffickers can be arrested before talking to the victim. The fact that they are locked up, may also help to convince a victim that they are no longer in any danger.
    - **Explain the victims' rights:** It is important to explain to the victim that the way he/she has been treated is not normal and that he/she should not have to put up with this. This explanation may be given by the investigators or by a social worker or cultural mediator. See 2.2.1 for more information on how to explain the situation to the victim.
    - **Draw up a document to inform the victim:** Investigators could consider drawing up a brochure or letter in the language of the victim, which explains why they want to talk to him/her, what his/her rights are and what the procedures are, so he/she knows what to expect. That way, they can make sure the victim is given information, in a language they can understand (on the condition he/she is able to read, of course).

EXAMPLE

Multilingual brochure for potential victims, Belgium

In Belgium frontline actors such as police and labour inspectors have copies of a multilingual brochure (27 languages) for victims of THB, which they hand over to potential victims they come across during their interventions. This brochure can help a victim in recognising himself/herself as a victim and it advises him/her to contact a specialised assistance centre.

  - **Make sure the victims' needs are met:** A victim that is provided with shelter, care and assistance, is more likely to be willing to cooperate with the investigation.
  - **Let the victim determine the circumstances of the interview:** When interviewing a victim, it is important to make the victim feel comfortable and in control of their own life again. If possible, the victim should be able to determine things such as the timing of the interview, the location (the police station, the shelter), whether they are interviewed by men or women, and so on.
  - **Try to build trust with the victim:** In order to build trust with the victim, authorities could for example avoid wearing a uniform. Supporting the victim by personally attending public hearings of the trial may also increase trust between the victim and the police officers. Finally, police officers should of course make sure they adhere to the Ethical Code of their organisation.
  - **Use proper interview techniques:** In order to get reliable testimony, effective interview techniques could be developed. Interviews of a victim could:

  - be conducted by specially trained interviewers. This may make the interview process a bit more bearable for a victim;
  - be conducted using interpreters; the specialised staff could also be trained on how to do this; and
  - be conducted taking into account the cultural background of the victim.
- **Think about the best location for the interview:** When the victim has gone home to their country of origin, there are several options for conducting an interview. It is important to think about the advantages and disadvantages of each option before deciding on the location, which could be:
  - the country of origin, in consultation with the local police,
  - the country of destination; in this case the local police may be able to help find the victim if contact has been lost,
  - both countries, when the interview is conducted by video conference.
- **Avoid unnecessary repetition of testimony:** When interviewing a victim, it is recommended that the interview is recorded in such a way that it can be used as evidence in court, for example on video. In some countries it is possible to hear the victim in the pre-trial phase if the actual trial is still a long time off, so that the testimony has already been entered in evidence for the trial.

EXAMPLE

Instruction judge, the Netherlands

In the Netherlands, a so-called "instruction judge" can interview the victim in the presence of the defence lawyer. When this has happened, the victim does not have to appear in court during the trial itself. This will be of use when the victim decides to go to his/her home country, or in order to spare the victim the pressure of testifying in court.

EXAMPLE

For future memory testimony, Portugal

Portugal has a similar instrument called "for future memory testimony", which is mostly used for victims that are very sick or dying, must go abroad, might disappear, or should not be subject to several interviews.

- **Inform the police in the country of origin:** Investigators could inform the police in the source country of the victim about the investigation, so that they can take action when the victim or his/her families are being threatened. This may put the victim's mind at rest.

4.3 The role of prosecution services

The impact of the THB for labour exploitation on the victim may be high and long lasting. Therefore, due consideration needs to be given to the protection of the victim during the judicial procedure. Furthermore, the victim also has the right to financial compensation. Therefore, regarding the protection of and assistance to a victim, prosecution services could:

- **Try to prevent secondary victimisation:** In order to prevent secondary victimisation of the victim during investigation, prosecution or trial, the following things[81] should be avoided as far as possible, without prejudice to the rights of the defence and in accordance with national law, namely:
  (a) unnecessary repetition of interviews;

[81] Article 12 paragraph 4 of EU Directive 2011/36/EU.

(b) visual contact between victims and defendants including during the giving of evidence such as interviews and cross-examination;
(c) the giving of evidence in open court; and
(d) unnecessary questioning concerning the victim's private life.

- **Protect child victims of THB for labour exploitation:** In order to protect child victims during investigation, prosecution or trial, without prejudice to the rights of the defence, prosecutors need to ensure that[82]:
  - interviews with the child victim take place without delay and, where necessary, in premises designed or adapted for that purpose;
  - interviews with the child victim are carried out, where necessary, by professionals trained for that purpose, preferably the same persons for all interviews;
  - the number of interviews is kept as limited as possible;
  - the child victim may be accompanied by a representative or an adult of the child's choice;
  - interviews with a child victim or child witness may be video recorded, including to be used as evidence in criminal court proceedings;
  - the court hearing take place without the presence of the public and / or the child victim be heard in the courtroom without being present, for example through communication technology.
- **Take the testimony of the victim anonymously:** When the testimony is taken anonymously, the victim might be more willing to cooperate because otherwise, they might fear repercussions from the trafficker to themselves or their family[83]. It depends on the legislation of the member state whether this is possible.
- **Claim (financial) compensation for the victim of THB for labour exploitation:** It may be practical to claim compensation for the victim during the criminal procedure, as the evidence that is needed to prove what the victim is owed will probably be part of the prosecution case anyway. In some countries, representatives of the victim or NGOs may be able to support the claim in court.

EXAMPLE

Claiming compensation for victims, Spain

In Spain, prosecutors are obliged to ask for compensation for the victims and to see that their rights are respected. A report by a forensic psychologist regarding the victim's evolution is always brought to trial to support the compensation claim. Representatives of NGOs are also summoned to reinforce the evidence.

4.4 The role of border forces

Regarding protection of and assistance to victims, border forces could:

- **Inform potential victims detected at the border of the support and assistance available:** see 4.1 for details.

4.5 The role of immigration services

Regarding protection of and assistance to victims, immigration services could:

- **Provide victims with a reflection period:** The reflection period mentioned in the introduction is usually arranged for victims by the immigration service[84].

[82] Article 15 paragraphs 3-5 of EU Directive 2011 / 36 / EU..

[83] GRETA 2015.

[84] See also EU Directive 2004 / 81 / EC.

- **Provide victims with a temporary residence permit:** The temporary residence permit mentioned in the introduction is also usually arranged for victims by the immigration service.
- **Set up a special protection program:** Some victims may not be able to cooperate with the investigation or prosecution, for example because of psychological or medical problems or because of threats from the traffickers. Other victims may not have enough information for the police to be able to start up an investigation, but may still be severely traumatised by the THB experience. For these cases, authorities could consider providing the victim with a kind of residence permit on humanitarian ground.

EXAMPLE

Special protection program for victims of THB, Austria

In Austria, a victim of THB is entitled to a "special protection" residence permit, which can be issued upon the initiative of the competent authority or upon application by the victim, provided that a "special protection" residence permit is considered necessary for criminal prosecution of the offender or for enabling the victim to make civil claims. The victim is not required to cooperate with the authorities in order to obtain the permit except concerning personal data. This one-year, renewable permit is also possible, if the victim requires special protection for individual reasons.

4.6 The role of local governments (municipalities) and / or regional governments

In order to protect and assist victims of THB for labour exploitation, local governments could:

- **Provide specialised shelters:** In countries where local governments are responsible for providing victims of THB with shelter, they could consider creating specialised shelters for victims of THB. In these shelters the focus lies on strengthening the mental and social health of a victim and the improvement of their social and legal position. Local governments are also often responsible for youth care, which includes the care for underage victims of THB.
- **Arrange sufficient shelter before an action day:** If local governments are responsible for sheltering victims of THB, law enforcement agencies could consider informing them in advance of any raids taking place. This would enable the local government to make sure that sufficient shelter is available for the victims expected to be found. See 4.1 for more information on shelter for large group of victims.
- **Issue residence permits to victims:** In some countries the local aliens authorities are the organisations responsible for issuing residence permits, also to trafficked persons. The place of residence determines which aliens authority is in charge.
- **Help victims to reintegrate into society:** Many local governments have instruments at their disposal that could be used to help victims of THB for labour exploitation reintegrate into society. They could for example:
  - provide victims with housing;
  - provide victims with education;
  - provide victims with assistance to find a job;

  and so on.

EXAMPLE

Appogg Agency, Malta

The Agency for Social Welfare Services offers a one-stop-shop service in Malta. It operates four centers in various parts of Malta for Maltese nationals as well as foreigners (Europeans and mostly third-country nationals). During the years that these centers have been operating in the community, they have built and strengthened links with other major entities such as the church parishes, the local councils, schools, the Housing Authority and the Department of Social Security. Service delivery varies according to the needs and resources of the particular community. Officials working in these centers have benefited from one-to-one mentoring by an international IOM expert on THB in 2013. In 2015 they received outreach training on THB from two IOM experts, focusing on THB for labour exploitation. The training included information on human trafficking trends and anti-trafficking policy, the Maltese context, identification of victims of trafficking, interviewing skills and referral and assistance to victims of trafficking.

The aims and objectives of the community services are:

- to improve the quality of life of the local community and promote community care;
- to improve the quality of life of children, families and individuals in the community, with particular attention to the most vulnerable and excluded in the community;
- to bring centralised social welfare services closer to the community;
- to build and enhance formal and informal support networks for the benefit of the most excluded in the community;
- to promote and enable the process of community development through local participation;
- to strengthen local potential through support, training and collaboration; and
- to evaluate the changes that are taking place and constantly work for more positive changes in the community.

EXAMPLE

Prevention through temporary employment, Hungary

In a small sized settlement there is a high risk for young man and woman to be exploited in Western Europe. Traffickers regularly approach individuals and their families with sophisticated offers. As an adequate answer, the Mayor and city council members are permanently monitoring the situation trying to identify the persons at risk. After identification, with the help of the Family Care Service of the local government, they set up a personalised action plan for the potential victim with different kinds of measures, including the offer of temporary employment at local governmental institutions.

- **Cooperate with local governments in source and / or destination countries:** Cooperation between local governments in other member states could be valuable, especially when many victims from one municipality in a source country end up in another municipality in a destination country. This could help to provide a stable return of victims to their home country. It could also improve the knowledge and understanding of why people become a victim and help to provide the advice, assistance and care that is most effective.

4.7 The role of NGOs

In order to provide protection and assistance to victims of THB for labour exploitation, NGOs could:

- **Improve self-identification rates within migrant communities:** Widespread social normalisation of exploitation prevents victims from self-identifying as such. Migrants who have a better understanding of social, housing and labour norms in the destination country could work for NGOs to share their knowledge within their community
- **Be present during raids:** NGOs could be asked to be present during raids by government agencies that are expected to encounter one or more victims of THB for labour exploitation. NGOs could for example provide cultural mediators to help agencies and victims communicate and could help provide assistance to victims. When they do this, however, NGOs should be careful not to become an extension of the investigation services.
- **Discuss the extent of their involvement in formal identification:** When it comes to the process of formal recognition of a victim, NGOs could discuss their involvement with the organisation(s) in charge of the formal identification of victims.
- **Support the organisation in charge of formal identification of victims:** Since access to protection and assistance often depends on this formal recognition, NGOs could consider supporting this process:
  - by participating in multi-agency panels;
  - by seeking an advisory role in decision making; and
  - by sharing information and opinions on individual cases, following ethical and legal codes of conduct.
- **Open their shelters and emergency accommodation:** NGOs could provide shelter to (potential) victims who have not been formally recognised as victims, since they would otherwise rely on informal support. Considering their often irregular status, this may make them vulnerable to re-trafficking or other forms of exploitation.
- **Map the available housing options for those not formally recognised as victims:** NGOs could discuss the issue of housing for people who do not fit the definition of THB but are vulnerable to THB or re-trafficking with the relevant Ministries.
- **Provide outreach care to victims who have found accommodation elsewhere:** Housing and basic needs are primary necessities to victims. Unfortunately, victims do not always stay at specialised shelters where these necessities could be provided.
- **Realise a safe environment for the victim to press charges:** NGOs could offer to accompany the victim to the police when pressing charges. NGOs could also offer a special room within their premises for the use of police, allowing the possible victim to press charges in familiar and trusted surroundings.
- **Assign a dedicated contact person to facilitate mutual information sharing:** For the sake of the victim, it could be helpful to have a dedicated contact person at the NGO involved in order to exchange information with partners organisations.
- **Set up internal procedures on disclosing information to partner organisations:** Since NGOs often have a lot of information that could be of value to government organisations, they need draw up rules and procedures for sharing this information, including that information will only be shared with prior consent of the victim. NGOs could for example consider sharing information with the embassy of the country of origin of the victim. Together with an NGO in the country of origin, the disclosure of information to the embassy could be discussed on a case-by-case basis.
- **Discuss with a victim how to increase his/her chances of getting a job:** In order to increase the victims' chances of getting a job, NGOs could:
  - map and inform victims about (alternative) options for language and/or vocational training;
  - support the reintegration of victims by, for example, setting up fixed temporary job placement schemes or offering (paid) internships.
- **Conduct activities to prevent re-trafficking of victims:** Besides researching the process of re-trafficking of victims, NGOs could conduct activities to prevent re-trafficking:
  - by cooperating with the police and relevant authorities, to increase clarity on the factors influencing a decision to grant or decline access to the protection and assistance system based on humanitarian grounds;
  - by mapping the available options for those who do not fit the tight definition of THB but may be vulnerable to THB or re-trafficking.

- **Set up contacts with NGOs in other countries:** A victim returning to his / her country of origin or moving to another country, could benefit from contacts between NGOs, which could help (with prior consent of the victim) to transfer psychosocial and other forms of assistance to the colleagues abroad.

4.8 The role of trade unions

Regarding the protection of and assistance to victims, trade unions could:

- **Assist a victim of THB for labour exploitation by taking the employers at fault to court:** As the aggrieved party in civil proceedings, the worker can claim the appropriately applicable conditions of labour as well as compensation for other material and immaterial damages. When a victim is open to the suggestion of pursuing his / her rights by means of litigation, the trade union staff member may contact the trade union's litigation department to discuss the possibility of bringing a case before the court.
- **Make a complaint on behalf of the victim:** As the exploited worker may run the risk of reprisals if he / she files a complaint him / herself, the trade union could file a complaint with the employer while at the same time getting the inspectorate involved.
- **Provide a victim with access to private and public employment agencies:** Access to these agencies could result in decent jobs for those workers who are allowed to stay in the destination country.

4.9 The role of embassies

Regarding the protection of and assistance to victims, embassies could:

- **Raise attention for protection of and assistance to victims:** Embassies could raise attention for protection of and assistance to victims by supporting events organised around this theme, by finding experts for these events together with ministries in their capital and / or by covering experts' travel costs.
- **Fund capacity building:** Embassies could identify the needs of the stakeholders addressing the protection of and assistance to a victim and fund small forms of capacity building between partners from their countries and local stakeholders on a project basis.
- **Support NGOs:** Embassies could support the position of NGO's providing protection or assistance for a victim towards decision-makers by asking attention for their needs at government level.

Chapter 5
Awareness, training and research on THB for labour exploitation

Introduction

People who have never experienced THB for labour exploitation themselves could experience difficulties recognising it, realising the gravity of the situation and understanding how hard it can be for a victim of THB for labour exploitation to leave this situation. This is why awareness of THB for labour exploitation is important. If first responders such as labour inspectors and uniformed police officers are not aware of the existence of THB for labour exploitation and its signs, no investigations will be started; if prosecutors are not aware of it, they will not be prepared to bring the cases before the court and if judges are not aware, they will not convict the perpetrators. Therefore, awareness is important for all organisations that might come in contact with THB victims. Next to professionals, awareness efforts may also be directed at the general public and at people that may be vulnerable to THB for labour exploitation.

Since THB for labour exploitation is such a complex phenomenon and many of its victims suffer from trauma and fear, dealing with cases of THB for labour exploitation requires more than just awareness. The officials tasked with this responsibility within the key organisations need special knowledge and skills. This is why they could benefit from training to tackle THB for labour exploitation. Training could be directed at three kinds of officials: frontline or first-level officials, contact persons (who form the link between frontline and specialised staff) and specialised staff. Finally, the complexity of THB for labour exploitation also means that research is needed to gain a better understanding of all aspects of his phenomenon.

5.1 Raising awareness of THB for labour exploitation amongst the general public, vulnerable groups and professionals

5.1.1 Raising awareness amongst the general public

In order to raise awareness amongst the general public, the relevant organisations could:

- **Set up awareness campaigns aimed at the general public:** The general public could come across signs of THB for labour exploitation without realising, for example in shops, hotels or on building sites. A campaign aimed at the general public could raise their awareness and call on them to report suspicious situations. This could e.g. be to a THB helpline, a number to report crime anonymously or the local police officer. Such a campaign could for example focus on locations where a lot of people pass by every day, such as bus stops, train stations, airports and so on. Campaigns could also consist of advertisements on TV, radio, in newspapers or on websites or social media.

EXAMPLE

Without information you become a slave, Slovak Republic

The Ministry of the Interior of the Slovak Republic held a national campaign "Without information you become a slave" during which posters with the number of the National Helpline for Victims of Human Trafficking were displayed in the airports, bus and train stations. Moreover, the visual of the campaign was displayed via internet banners with 10 million displays and the campaign spot was broadcast on the national TV. Due to the campaign, the number of calls to the national helpline increased.



- **Run a national helpline on THB:** A national helpline could be run by a THB actor that is able to provide those calling with information before travelling abroad for the purpose of getting a job, with information on recruitment agencies and on possible fraudulent activities by those recruitment agencies. A helpline should ideally be available 24/7. In case a potential victim calls, the provider of the helpline should be able to immediately assist such a person.

EXAMPLE

In Slovakia, the national helpline is run by the NGO giving assistance to victims of THB.

- **Generate publicity about government actions, for example after successful prosecutions:** Communicating about the actions undertaken against THB for labour exploitation by government agencies could increase awareness. For example, newspaper articles on successful cases where the investigation of THB for labour exploitation has resulted in prison sentences for the traffickers and/or compensation for the victim can help draw attention to the issue in both source and destination countries. This method could also have a deterrent effect on employers who might consider engaging in THB for labour exploitation practices, since it shows that there is a substantial risk of being caught. Destination countries could consider arranging press articles in the source country concerning the treatment of migrant workers in destination countries. This may improve prevention and protection of workers before they commit to migration.

EXAMPLE

Article in the Bulgarian press regarding an investigation by the UK's Gangmasters Licensing Authority



IV

Гаврят се само с нелегалните работници, защото не смеят да се оплачат

10 г. затвор за мними посредници

Отнели сме 25 лиценза на фирми заради нередности, казва Пол Уайтхаус

- **Use the power of consumers to clean up supply chains:** The power of consumers may be used to prevent THB for labour exploitation. Companies could choose to inform the public about which products are produced under fair circumstances, for example by using a type of fair trade label. NGOs could also set up awareness campaigns to draw the attention of the public to the conditions under which the products are produced. This way, the public might be persuaded to buy products produced under fair circumstances instead of products of questionable provenance.

EXAMPLE

The Green Saint Nicolas / Honest chocolate, the Netherlands

Every year on the 5th of December, people in the Netherlands, and especially children, celebrate the day of Saint Nicolas. As part of this celebration, people are given presents and candy, including in the form of chocolate letters. Because the 3 million cacao farmers who produce the cacao for the chocolate letters were severely underpaid, worked under slavery-like conditions and sometimes children were forced to work on the plantations, in 2009 Oxfam Novib introduced Green Saint Nicolas.

It was the task of Green Saint Nicolas to visit retail centres and supermarkets to inform them about the severely underpaid cacao farmers and the bad working conditions under which the cacao was produced. Commercials and media campaigns were set-up. The target was to raise the awareness of Dutch society of the conditions under which most of the 5 kilos of chocolate every Dutch person consumes each year (on average) is produced.

Why was this case successful?
More than 100.000 people supported the Oxfam Novib campaign by sharing their message concerning slave-free chocolate on social media. As a result, the Dutch minister of Agriculture, cacao traders, chocolate makers, supermarkets, Oxfam Novib and other civil society organisations signed a statement of intent and the chocolate producers have changed their practices. Since 2012, all the cacao that is used for the production of chocolate letters for the celebration of Saint Nicholas in the Netherlands is produced and bought for a fair price.

- **Work with media to (sensitively) draw the public's attention to the plight of victims of THB for labour exploitation:** Acknowledging that the issue of THB for labour exploitation is real, could make the public in source countries more inclined to seek information on safe migration options. NGOs could clarify to the media what the consequences may be for the victim of reliving their ordeal during the interview and of the public attention an interview will bring to their case. NGOs could furthermore educate the media to ensure they respect the victim's privacy and only use information with prior informed consent, and to ensure that the media present a clear and balanced picture of the complex issue.

5.1.2 Raising awareness amongst vulnerable groups of (potential) victims

In order to raise awareness amongst vulnerable groups of (potential) victims, organisations such as ministries, law enforcement agencies, embassies, local or regional governments, NGOs and trade unions in both countries of destination and countries of origin could:

- **Raise awareness about labour rights, risks and remedies among potential migrant workers in countries of origin:** Raising awareness of the risks of THB for labour exploitation in the countries of origin can help people to avoid becoming a victim. Migrant workers should not have to depend on recruiters for information on their destination country. Potential migrant workers need to be informed about the circumstances they will encounter in the country they would like to work in, such as the cost of living, the minimum wage and sectorial wages, health insurance, taxes and so on. That way they know when the wages that are offered (that may seem fine for their own country) are too low to live on in the country where they are going to work. Migrants also need to understand that they should not sign any contracts they do not understand and insist on a contract in their own language. Finally, they need to know about the risks of THB for labour exploitation and where they can find help if they find themselves in trouble. The information could offer concrete solutions to common violations, include contact details of police forces and NGOs, and provide avenues for support to claim rights, instead of just explaining what not to do. Different approaches could be used for different age groups (using television, newspapers, social media, websites, posters, meetings and so on).

EXAMPLE

A campaign on Facebook to increase awareness about unfair recruitment, Slovak Republic

In order to warn potential migrant workers about recruitment under false pretences, for work that was too good to be true, the Slovak Republic ran a campaign on Facebook. The campaign consisted of several phases. The first phase included the launch of a fake page of a fake recruitment agency offering a great job abroad and a good salary (www.superzarobok.sk). The campaign on Facebook targeted young people from areas of Slovakia affected by unemployment and a higher rate of victims of THB. The fake page showed several significant signs of a fake page. After logging in on the fake page, the person concerned was asked to fill out a registration form to get a great job.

One of the requirements was to include their own email address and an email address of a close person or relative. After a few days an email was delivered to the addresses jncluded in the registration form saying that the person might have become a victim of THB. The email also contained a link to the educational webpage (www.novodobiotroci.sk – available only in Slovak) where all useful information on trafficking and job search could be found in a very understandable form.

The video with English subtitles can be seen here:
https://www.youtube.com/watch?v=yz91V2Cg95w

Partners involved in the cooperation and their roles:
The Ministry of the Interior of the Slovak Republic and Civil Society Organisation "Brániť sa oplatí" cooperated in the preparation of the fake page and the educational website. The cooperation with Facebook was performed by the NGO.

What makes this practice successful:
The advertisement for the offer of the fake page was massively displayed: 700.000 people saw the advertisement and 40.000 people saw the campaign. 2,300 people used the form to register and 7,000 people visited the information webpage during the campaign.

EXAMPLE

Providing information to Polish migrant workers on living and working in the Netherlands

In 2013, bilateral agreements were signed between the Netherlands and Bulgaria, Poland and Romania to strengthen cooperation in the field of labour migration. In 2014, three additional policy officers at the three embassies were appointed and a budget was made available for communication activities. The aim is to improve access for migrant workers to information about working and living in the Netherlands and to strengthen the liaison function of the Dutch embassies between implementing agencies in the Netherlands such as the Inspectorate SZW (labour inspectorate), the SVB (the National Insurance Bank, which implements national insurance schemes in the Netherlands) and UWV (Employee Insurance Agency, which implements employee insurances and provides labour market and data services) and their sister organisations in Bulgaria, Poland and Romania. The joint approach is based on three pillars:
1) Analysis of migration to the Netherlands.
2) Building a network with national and local governments and other organisations.
3) Information activities (both online and offline).

As part of the information activities, the Embassy of the Kingdom of the Netherlands in Warsaw prepared an information film for Polish citizens, who are planning to go or have arrived in the Netherlands for work. "Prepare yourself before you go" is the main message of the film, full of advice of both experienced Poles who are already working in the Netherlands and of professionals who support migrants.

The film is intended to encourage migrants to look for information about the country they are planning to go to, about their future employer as well as about the organisations or institutions which could provide them with support in case of problems. The film is available in two languages (Polish and English) on: http://poland.nlembassy.org/you-and-netherlands/work-in-the-netherlands/labour-migration-film.html.

Other activities undertaken by the policy officers to increase awareness among migrant workers are very diverse (information materials, Facebook, and other websites). Direct contact with people who (may) want to come to the Netherlands is very important. For this purpose, numerous meetings for job seekers and representatives of local organisations have been organised. The central message is: prepare yourself well, reflect before you start.

EXAMPLE

Campaign on going to work abroad safely, Estonia

The Ministry of Social Affairs of Estonia launched a campaign which aims to raise people's awareness of the risks of working abroad and of the rights of employees that are recruited via a recruitment agency. As part of the campaign, a special website has been set up: http://toovahendus.ti.ee/.

The website contains:

1. A number of short video's to raise awareness among the public;
2. A checklist for employees on the risks of THB for labour exploitation when recruitment takes place via a recruitment agency. The public is informed about legislation and their rights;
3. Links to relevant organisations such as the labour inspection.

- **Use understandable language:** It is advised that information aimed at potential migrant workers is formulated in a language that the victim will understand. The information could be offered in a format that is tailored to the target group (e.g. written, verbal or a cartoon), and is disseminated through channels known to be used by the intended migrants.

EXAMPLE

Bus stickers on route from Slovakia to the United Kingdom

Migrant workers are known to travel from Slovakia to the UK by bus. On this route, stickers have been put on the back of bus seats. The stickers give information on labour rights in the UK, and the contact details of a local NGO in case of need. The travelling migrant worker has the entire bus ride to memorise the phone number.

Partners involved in the cooperation and their roles

The NGO Human Rights League in the country of origin produced the stickers, using information from NGOs in the country of destination. The bus company cooperates by allowing the NGO to put the stickers on the back of the bus seats.

What makes this practice successful?

It is a cheap but effective method that reaches many migrant workers. It informs migrant workers of the labour rights in the country of destination and offers a route to support when needed. This simple step ensures that information about labour rights and remedies, in relevant languages, reaches potential victims of THB for labour exploitation.

- **Raise awareness in schools:** One group of potential victims that awareness activities could be aimed at are children that are about to leave school and enter the labour market. Lectures in schools can help inform them of the risks of THB for labour exploitation.
- **Raise awareness in migrant communities in countries of destination:** Making use of cultural mediators or peer educators from a migrant background and with contacts in migrant communities could be essential. The possibilities for law enforcement agencies to access vulnerable communities are limited, so it is important to involve NGOs in the dissemination of information.
- **Raise awareness among irregular migrants:** Workers without legal residency have rights too, so they should also be made aware of the risks of THB for labour exploitation.
- **Set up national awareness campaigns to prevent internal trafficking:** THB for labour exploitation is not only a cross-border phenomenon. Internal trafficking is a wide-spread problem. With some adjustments, (social) media campaigns such as those described above for migrant workers in countries of origin could also be aimed at nationals who may be at risk of exploitation in their own country.

5.1.3 Raising awareness amongst professionals who might come into contact with victims of THB for labour exploitation

In order to raise awareness amongst professionals, relevant organisations could:

- **Increase awareness of staff that may come into contact with THB for labour exploitation:** Awareness sessions could be provided to staff at organisations that could come into contact with signs of THB. This includes governmental and other organisations that work in the field (e.g. NGOs, trade unions, health workers, outreach workers from churches/faith groups), but also government agencies where people need to submit some kind of application or registration, companies and so on. 1.2 contains a wide-ranging list of organisations that could come into contact with signs or victims. During these sessions, participants should be made aware of the indicators of THB for labour exploitation and where they can report signs of THB for labour exploitation they may come across. A list of indicators could be a useful tool for them to keep on their desk or in their pocket (see annex 5 for an example). The length of these sessions can be adjusted according to how likely it is that the staff involved will come into contact with THB for labour exploitation.

In order to prevent victims of THB who are staying in (alien) detention centres going undetected, NGOs could:

- **Raise awareness amongst staff working in (alien) detention centres:** NGOs could raise the awareness of personnel in alien and other detention centres by sharing their knowledge of indicator and supporting them to draw up clear procedures to refer possible cases of THB for labour exploitation. NGOs could also try to obtain permission to access an (alien) detention centre to provide support to possible victims.
- **Raise awareness of the staff of businesses:** Businesses can be the “eyes and ears” for law enforcement and could be a valuable source of intelligence on THB for labour exploitation. Engagement with businesses could range from supporting awareness raising initiatives, identifying and giving feedback on lessons learned and also providing materials to display in the workplace.

EXAMPLE

Businesses as a source of intelligence, UK

In the UK, the GLA has collaborated with the regulated sector to support awareness raising programmes and delivered bespoke training to representatives of the retailers' supply chains (see 5.2.2 for information on this training). Dialogue is maintained through a number of fora and the GLA can provide advice and support to businesses who seek assistance in tackling this issue.

5.2 Training on THB for labour exploitation

For professionals who need to deal with THB for labour exploitation, training is essential. There are three categories of officials that could benefit from training: frontline or first-level officials, contact persons (who form the link between frontline and specialised staff) and specialised staff.

5.2.1 General information

In order to provide professionals with the necessary knowledge and skills, the organisations involved could focus the trainings they provide on three different target groups and:

a) Provide training programmes to frontline staff (those coming in contact with possible victims): Frontline staff such as labour inspectors and border guards, who are often the first and sometimes even the only persons to get in contact with a certain victim, could benefit from training to improve their knowledge and skills. This will enable them to better identify a victim . A basic training could address:

- what THB for labour exploitation is,
- what the indicators of THB for labour exploitation are,
- where they can report signs of THB for labour exploitation,
- what frontline staff need to do when they think they have identified a potential victim (i.e. the internal referral procedures),
- what the rights of victims are and
- what the victim's perspective may be.

The use of case studies as part of training programmes is essential to provide practical examples of the principles taught.

EXAMPLE

The Practical Tool for First level identification of victims of THB for labour exploitation, France[85]

This practical tool contains guidance on recognising the signs of THB for labour exploitation, informing the competent authorities about potential victims and referring those victims to the necessary support. It describes seven steps that frontline staff need to take in such a situation (these are included in Annex 8). The practical tool is accompanied by more detailed Guidelines for the first-level identification of a victim of THB in Europe. The Guidelines have been drawn up to be used by trainers as a resource for developing training for frontline officials.

b) Establish and train contact persons (who form the link between frontline staff and specialised staff or specialised organisations): Depending on the size of the organisations involved, it may be necessary to establish contact persons who can transfer reports of THB for labour exploitation from frontline staff to specialised staff (in their own or another organisation) and can forward feedback on the report the other way. Training for these contact persons could consist of:

- awareness of THB for labour exploitation,
- recognising signs of THB for labour exploitation,
- knowledge of internal procedures,
- knowledge of the victim perspective,
- basic knowledge of relevant actors involved in follow up of a possible case and
- providing feedback to frontline staff.

[85] EuroTrafGuID 2013.

c) **Establish and train specialised members of staff (e.g. responsible prosecutors, detectives, border guards, labour inspectors and policy officers):** Key organisations such as prosecution services, police forces, border guards, labour inspectorates, local governments and so on could introduce specialised members of staff who are trained to tackle cases of THB for labour exploitation. Depending on how involved their organisation is, they could focus on issues of THB either full or part time and develop specialised skills and knowledge. The main organisations involved could even consider setting up specialised teams or units to focus on THB for labour exploitation. Training for specialised staff could consist of:

- knowledge of the national and international legal framework (including the non-punishment principle), policies, practices,
- knowledge of internal and multidisciplinary procedures, MoUs and agreements involved,
- knowledge of the victim perspective,
- knowledge of relevant organisations and their representatives involved in the follow-up of a possible case and
- willingness and skills needed for fruitful cooperation.

In addition to providing these three types of training, the organisations involved could:

- **Try to train officials who intend to stay in their job for a while:** When selecting officials to take part in training, it may be worthwhile to check if they have any plans for moving on at short notice. If they leave their job shortly after having received the training, the knowledge may be lost and another staff member will need to invest time in training.
- **Select a way of sharing knowledge and experience most suited to an organisation:** The best way to share knowledge and experience about THB for labour exploitation depends on the kind of organisation and official it is aimed at. Training can be provided through courses, webinars and online learning modules. Common curricula and training materials, including training manuals, could be developed to ensure that knowledge and experience built up over the years are shared and a common understanding is developed. Seminars or conferences can also be used to share knowledge, best practices and the outcome of research.
- **Share information on new trends and modus operandi:** In order to keep the members of staff who have been trained up-to-date on the latest developments, organisations should develop a way to share information on new trends and modus operandi.

5.2.2 Multidisciplinary and cross-border cooperation

In order to strengthen multidisciplinary cooperation against THB for labour exploitation, the organisations involved could:

- **Provide multidisciplinary training:** Such multidisciplinary trainings could provide the organisations participating with insight into THB for labour exploitation from different perspectives and into their respective contributions when cooperating against it. It can help them develop a common understanding of and common approach to the phenomenon. A common language and common standards, such as joint indicators of THB for labour exploitation, can make cooperation a lot easier. The training can also be used to distribute good practices more widely.

EXAMPLE

CEPOL training activity on THB for labour exploitation

In June 2015, the first CEPOL training activity on THB for labour exploitation was organised together with the Swedish National Police Academy. The training activity was CEPOL's contribution to the Operational Action Plan of EMPACT THB. The overall aim of the training activity was to improve a multidisciplinary approach to THB for labour exploitation tackled via labour inspectors. Therefore the course was open to labour inspectors as well as police officers. Europol, FRA and IOM all contributed to the training activity, as did the UK National Crime Agency and the Gangmasters Licensing Authority (GLA) as well as the Belgian Social Inspectorate.

The content covered the causes and effects of THB for labour exploitation and domestic and international measures and legislation to combat THB for labour exploitation. The training activity looked at opportunities for multidisciplinary cooperation, methods for detection and investigation of THB for labour exploitation and challenges and opportunities, such as the question why victim statements are often inconsistent. Participants were given the opportunity to use the CEPOL e-net as a platform for post-course discussion and sharing of information and material relating to the topic of THB for labour exploitation.

Partners involved in the cooperation and their roles:

- CEPOL: Initiated and funded the training activity
- The Swedish National Police Academy: Developed the specific objectives and learning activities, invited speakers and organised the implementation of the training.
- The UK National Crime Agency (NCA) and Gangmasters Licencing Authority (GLA) supported the organiser in the planning stage as well as by providing speakers. Presentations were also given by representatives from Europol, FRA, IOM, and the Belgian Social Inspectorate. All speakers led participant discussions on their respective topics.
- There were 34 participants, including nine labour inspectors. Nineteen member states, and Norway, were represented among the participants.

What makes this practice successful:

There was a high level of participant activity, with group work and discussions that utilised the combined competence of the group. The multi-disciplinary approach furthered the understanding of the roles that police officers and labour inspectors can play in combating THB for labour exploitation, and of the opportunities inherent in multi-agency and international cooperation. Case studies and sharing of operational experiences increased knowledge of methods for prevention and detection. It was a residential training where both course activities and the social programme were designed to provide opportunities for networking.

EXAMPLE

Multidisciplinary training, Bulgaria

In 2012, the National Commission for Combating Trafficking in Human Beings (NCCTHB) organised six multidisciplinary trainings for judges, prosecutors and police officers. The trainings introduced the new trends in THB in Bulgaria. The trainings further aimed at improving the interaction between the institutions in investigation and criminal proceedings, support and reintegration for victims of trafficking and exchange of experience. More than 150 representatives of district and regional courts, district and regional prosecution offices, the sector "Trafficking in Human Beings" of the Directorate General Combatting Organised Crime and its respective territorial units, police officers from the Border Police, experts from the NCCTHB, secretaries of the Local Commissions for Combatting THB and representatives of NGOs took part in the trainings.

EXAMPLE

Multidisciplinary conferences, Germany

In Germany, the Federal Criminal Police (BKA) and some state police forces, together with counselling centres, provide multidisciplinary conferences on trafficking in human beings where the police, migration services, counselling services, tax authorities, trade unions and labour inspectorates can participate in training and workshops. These conferences are used for training and networking.

Another example of multidisciplinary sharing of expertise took place in 2014, when civil servants from the Federal Government and the Länder participated in the meeting of investigators on trafficking in human beings in which the latest expert knowledge is shared.

- **Provide similar training to law enforcement, prosecution and judges:** Ensuring training for law enforcement, prosecution and judges has the same content may help in the build-up, prosecution and conviction of THB cases as all parties are then better aware of what the other party needs in order to successfully proceed with the case.
- **Involve NGOs in training:** If an NGO provides (part of) a training, this could help ensure that the perspective of the victim and victim's rights receive sufficient attention.
- **Provide training to Chamber of Commerce staff:** Staff at the Chamber of Commerce can play a role as gatekeeper for THB for labour exploitation, including through the use of bogus self-employment. If someone comes in to register a new business, staff at the Chamber of Commerce could look for signs of THB for labour exploitation and pass those on to the relevant authorities. Signs of THB for labour exploitation that might be detected could be when many foreign men or women register the same address as their home for a short period, when they are always accompanied by the same man, when this man is holding their passport and / or when he / she is uncomfortable in his company. The staff at the Chamber of Commerce could be trained to detect THB for labour exploitation and to know which information to pass on to the relevant authorities.
- **Provide training to staff of companies in sectors where there is a greater risk of THB for labour exploitation:** Those employed as human resource managers, contract managers, site supervisors and auditors are just some of the people within a business who may engage with trafficked and exploited workers. It is important to provide them with clear and concise guidance in relation to the indicators to look out for and the relevant authorities to report these signs to.

EXAMPLE

GLA and University of Derby training course, UK

In the UK the GLA together with the University of Derby have developed an accredited training course aimed at businesses including those recruiting and employing UK food industry workers. People working in the UK's food and agriculture sectors – as crop pickers, factory fruit packers, meat processing plant workers or other roles – may be vulnerable to wage exploitation by unscrupulous employers, in ways amounting to THB. The aim of the training course is to help supply chains learn how to police their own suppliers and ensure that products and services are not delivered as a result of THB. The training covers the indicators of THB and forced labour, how to test business compliance when applying the GLA Licensing Standards (which cover UK legislation that covers the employer-worker relationship, and forced labour) and some of the basic investigative interview skills which can be utilised to ascertain how workers are being treated or have been treated. It is designed to give the participants the necessary knowledge, skills and confidence to identify exploitative practices. The training can be applied across different business sectors which are also at risk of THB. There will be training for different levels of employee: for front line managers, human resource managers, contract managers and others. The training has online modules and classroom input.

5.2.3 The role of police forces and other criminal investigation services

Getting a conviction for THB for labour exploitation is not easy. In order to improve the chances of getting a conviction, police forces and other criminal investigation services could:

- **Provide training to uniformed police:** Uniformed police who patrol the streets see and hear a lot. Training them as frontline staff (see above under 5.2.1 General information) could result in a lot of useful information being reported.
- **Provide training to investigators:** During the training, attention could be devoted to:
  - the indicators of THB for labour exploitation,
  - anti-trafficking legislation (including the non-punishment principle), jurisprudence and policy,
  - the investigative powers available,
  - sources that are likely to yield relevant information, including using the internet and social media to recognise signs of THB for labour exploitation and gather evidence for a case, where to find information on jobs, employers, contracts and so on,
  - the partners they can expect to cooperate the most with, their roles, competences and expertise,
  - a basic knowledge of labour legislation, residence and work permits, tax legislation and so on,
  - the modus operandi of traffickers, background of victims and trends in the criminal phenomenon,
  - (for financial investigations) how criminals obtain and move money, including across borders,
  - techniques for interviewing perpetrators of THB for labour exploitation,
  - tools for European and international cooperation, including the support provided by Europol and Eurojust, the EMPACT project, JITs, the European Arrest Warrant and so on.
- **Consider making training for interviewing a victim a requirement:** The organisations responsible could consider providing criminal investigators with training on how to interview a victim of THB for labour exploitation before they are allowed to do so. Since a victim could be severely traumatised by the experience of THB for labour exploitation, he/she needs to be treated with the utmost care. Knowledge of the National Referral Mechanism for victims and the care and assistance available is also important.
- **Establish a centre of expertise:** If it is not possible to train investigators in all the regional or local police forces and other criminal investigation services, the organisations responsible could consider having trained investigators in a national unit, a centre of expertise, who can assist regional or local teams during interviews victims of THB for labour exploitation.

Further reading

- ICMPD, Human Trafficking – How to Investigate it. Training Manual for Law Enforcement Officers, Vienna 2015[86].

5.2.4 The role of border forces

In order to train their staff, border forces could:

- **Use the Frontex manual "Anti-trafficking training for border guards":** Border forces could use the Frontex training manual to train both their first- and second-libe border guards.

EXAMPLE

Frontex manual "Anti-trafficking training for border guards", including a Toolkit[87]

Frontex has developed a THB Training Manual, including a Toolkit. The Manual consists of three modules:

[86] ICMPD 2015.

[87] Frontex 2012.

Module 1 – Awareness aims
To create awareness, increase understanding and enhance knowledge among the border guard community of the crime of THB, its characteristics, actors, functioning and mechanisms.
Module 2 – Identification
Intended for the first-line border control to improve the ability of the border control authorities to identify potential victims, but also potential traffickers.
Module 3 – Interviewing
Intended for the border guard in the second line to provide a firm basis for an interview that should allow for the final evaluation whether a person is a (potential) victim of THB, taking into account any need for assistance as well as the most effective referral for further social, judicial and administrative follow-up.

The manual draws attention to the fact that the process of recruitment differs per victim (e.g. fully deceptive or partially deceptive recruitment) and that the victims border guards may come across are diverse (already exploited vs. potential victims, men vs. women, not willing to cooperate, refugees and so on). It also contains guiding principles regarding child victims as an extremely vulnerable group (explain their rights, do no harm, ensure safety, sensitive approach, active listening and so on).

Partners involved in the cooperation and their roles:
The Training Tool focuses on combating THB by first and second line officers and was developed in close cooperation with experts from member states and Schengen Associated Countries, as well as EU agencies and international organisations.

What makes this practice successful:
The manual is used in the Frontex Train-the-Trainer Program and the member states trainers can easily use the material provided for their national training programmes. By receiving the practical tool composed of the indicators of a trafficker and a potential victim, examples of documents and modus operandi used, it is possible for the officers of the border services to have an opportunity to prevent this serious crime at its very early stage. The training manual is based on the new EU Directive 2011/36 and has been translated into all EU languages. This manual is also the basis for training to third-country border guards.

5.2.5 The role of immigration services

As part of training on THB for labour exploitation, immigration services could:

- **Provide training to officials working in the asylum system:** People who apply for asylum may be victims of THB for labour exploitation, maybe without even realising it. Providing training to staff who deal with asylum seekers may help to detect these victims.

EXAMPLE
Training for asylum officers and senior advisers, Finland

The Finnish Immigration Service provides a tutorial on victims of THB for all Asylum Officers and Senior Advisers. Asylum Officers and Senior Advisers who are specialised in specific migration categories, for example on potential victims of THB, receive additional in-depth and comprehensive trainings.

- **Cooperate with immigration services from other EU countries on drafting and delivering common trainings:** Through close cooperation on training, less experienced migration services can learn from their more experienced partners.
- **Cooperate with the private sector:** An example of such a cooperation is the Airline Ambassadors International organisation. Flight attendants may spend several hours on a plane with potential victims of THB and need to know how to act on their suspicions. The same goes for medical staff working in a hospital that may also come across victims of THB.
- **Organise training on specific indicators and migrant profiles:** It may be helpful to train migration officials on specific indicators and migrant profiles, especially of those migrants who seek employment in the country of destination, in order to be able to identify potential victims at a very early stage (i.e. prior to the issuance of official residence permits).

5.2.6 The role of local governments (municipalities) and / or regional governments

In order to strengthen multidisciplinary cooperation against THB for labour exploitation and the role of local governments within that cooperation, local or regional governments could:

- **Train selected officials:** Local governments are the level of government that is closest to citizens and they are therefore well-placed to identify or prevent problems. In 2011 the EuroTrafGuid-project started, chaired by France, in cooperation with Spain, Greece, Romania, Bulgaria and The Netherlands. The objective of this project was the development of common guidelines and procedures in the first level identification of potential victims. The material developed could be very useful in raising awareness and training of civil servants and also of politicians (for example the Mayor or City Councils). Two parts of the "Practical tool for first-level identification of victims of human trafficking for labour exploitation", namely the list of indicators of THB for labour exploitation and the seven steps for dealing with a potential victim of THB for labour exploitation, have been included in Annex 5 and 8.
- **Train officials responsible for inspections of construction sites or industrial areas:** In countries where local or regional governments are responsible for inspecting building or environmental permits, for example on construction sites and / or industrial areas, they could consider training the civil servants responsible to detect signs of THB for labour exploitation.
- **Train officials responsible for providing social benefits to recognise signs of fraud:** In some member states, local governments are responsible for the provision of social benefits. Traffickers sometimes combine THB for labour exploitation with benefit fraud, by applying for benefits in the name of their victim. Benefit fraud could for example come to the surface when there are multiple applications for benefits at one address. This in turn could be a sign of THB. The organisations responsible could therefore consider training the civil servants in charge of the application process for social benefits to recognise these signs.
- **Train civil servants working at the registration desk to recognise signs of THB for labour exploitation:** Depending on the legislation in the member states, people may have to register their address at a municipal office when they are moving to that municipality. People may also need to visit a municipal office when they need a new identification document or driving license. The civil servants working at the (registration) desks come into direct contact with the people who need to register. That means they could come into contact with a potential victim, so it is important that they know how to spot signs and what they should do. A list or card containing the signs to keep behind the counter could be useful.

5.2.7 The role of NGOs

In order to provide organisations working with victims of THB for labour exploitation with the necessary background information, NGOs could:

- **Provide understanding of the victim's perspective to the relevant partners:** Understanding of the victims' perspective could be very valuable in the process of pressing charges and prosecution and could be realised by organising trainings or workshops. Relevant topics could be:
  - the victims' perspective and
  - cultural differences; the behaviour of a victim may deviate from that in the country of destination. A victim might for example smile in court to cope with stress. A victim may not be happy about being rescued or have nothing to win: for example, a victim who already has a residence status and work permit may have limited motivation to cooperate, since that may entail the risk of losing his / her work and thus residence status.

5.2.8 The role of ministries and embassies

Regarding training and exchange of expertise, embassies could:

- **Support peer-learning and information exchange within their region:** Embassies could support training and information exchange within their region by providing financial opportunities for local partners (national rapporteurs, NGOs, labour inspectorates etc.) .

5.2.9 The role of judges

In order to make sure that judges handling cases of THB for labour exploitation understand this complicated crime, the judiciary could:

- **Provide training to judges:** Training for judges on THB for labour exploitation may help them to better understand the circumstances under which workers end up being trafficked for labour exploitation.

EXAMPLE

Specialisation of judges, the Netherlands

In the Netherlands, a limited number of judges and legal staff handle all THB cases. This allows the courts to make sure that judges and staff possess enough substantive knowledge to handle the often complicated cases. In addition, on 8 February 2013 the Board of Prosecutors General and the Council for the Judiciary agreed on a covenant within the framework of article 139b of the Judicial Organisation Act, which sets out that THB cases of the National Public Prosecutors' Office (Landelijk Parket or LP) and of the National Public Prosecutor's Office for serious fraud and environmental crime (Functioneel Parket or FP) will be handled by four designated courts, being the courts of Amsterdam, Rotterdam, 's-Hertogenbosch and Zwolle. (For FP cases this only applies to cases for the full court).

SSR (the joint training institute of the Dutch judicial system and the Public Prosecution Service) offers specialised courses and trainings for judges and prosecutors. The training includes discussion of the non-punishment principle. The subject of victims is part of the general education of (criminal law) judges, including the important issue of compensation.

5.3 Research

In order to increase the understanding of relevant subjects and trends in the field of THB for labour exploitation, the organisations involved could:

- **Commission research on THB for labour exploitation:** Relevant organisations could consider commissioning research on THB for labour exploitation and possible ways to counteract it. Research can be a very valuable tool, for example to find out which types of intervention may be effective and which may not.

EXAMPLE

FRA report Severe labour exploitation: workers moving within or into the European Union – States' obligations and victims' rights

From 2013-2015, the Fundamental Rights Agency (FRA) of the EU carried out extensive research into the nature of and responses to criminal forms of exploitation of workers[88] moving within or into the EU.

This comprised field research in 21 EU member states, including interviews, focus group discussions with professionals as well as desk research into the legal and institutional framework of severe labour exploitation in all 28 EU member states. FRA also collected over 200 case studies.

Research findings show that while the EU has legislation prohibiting labour exploitation, workers moving within or migrating to the EU are at risk of becoming victims of severe forms of labour exploitation. The comparative report identifies risk factors contributing to such exploitation, highlights the challenges member states face in combatting it and discusses ways to improve the situation and above all, to strengthen victims' access to justice. A further phase of the project, beginning in 2016/17, will explore the views of migrant workers who are at risk of experiencing or have experienced severe forms of labour exploitation in selected EU member states.

Partners involved in the cooperation and their roles:
FRA collected data through its multidisciplinary research network, Franet, (composed of contractors in each member state who provide relevant data to FRA). FRA also received input from the Ludwig Boltzmann Institute, as well as from a group of experts and practitioners in the field of labour exploitation (from international organisations, labour inspectorates, civil society organisations and EU bodies such as CEPOL, EU-OSHA and Eurofound.

What makes this research successful?
Through the data collected, FRA's research helps to fill a significant knowledge and evidence gap on the topic of labour exploitation in the EU, and the resulting comparative report is the first to comprehensively explore all criminal forms of labour exploitation in the EU (i.e. covering slavery, servitude, forced, compulsory and bonded labour, as well as particularly exploitative employment relations). Country reports that have been drawn up concerning the on 21 EU member states (all but Denmark, Estonia, Latvia, Luxembourg, Romania, Slovenia and Sweden) can assist the national authorities and civil society organisations involved in combatting severe forms of labour exploitation.

EXAMPLE

Addressing Demand in Anti-Trafficking Efforts and Policies, DemandAT

DemandAT is an interdisciplinary project addressing the challenge of understanding demand for trafficking in human beings and analysing the policy and practical measures that can influence this demand. The project feeds into recent efforts of European countries to find ways to reduce demand for the products and services provided by trafficked persons within their own economies and societies as a means of tackling trafficking. The project investigates multiple forms of trafficking and forced labour to assess the impact and potential of demand-side measures to reduce trafficking. The DemandAT project brings together a multidisciplinary team of experts across seven European countries.
For more information, please visit http://www.demandat.eu/.

[88] "Criminal forms of exploitation" is a wider concept than THB for labour exploitation, since it also includes particularly exploitative employment relations.

Chapter 6
Cross-border cooperation against THB for labour exploitation

Introduction

Cooperation between source and destination countries of THB for labour exploitation is essential because of the cross-border nature THB for labour exploitation can take. By working together, source and destination countries will be able to tackle the whole trafficking network rather than just part of it in one country. Sharing information on the whole process of THB for labour exploitation, from recruitment to employment, may enable investigators to identify the perpetrators and their facilitators involved at various stages in various countries, including transit countries. In order to do this, cross-border cooperation against THB for labour exploitation also needs to be multidisciplinary. Labour inspectorates, police forces and border forces may for example all have information that is relevant to a cross-border case. In order to tackle a case of THB for labour exploitation, it could be useful to coordinate inspections, investigative activities or border controls.

Labour inspectorates, police forces, NGOs and other relevant organisations in the member states often cooperate on a case-by case basis when it comes to THB for labour exploitation. It could be worthwhile to create a more structured basis for this cooperation, to increase its effectiveness and send a signal to traffickers that officials like labour inspectors and police officers are prepared to cross borders to tackle cases of THB for labour exploitation. Similarly, prevention requires the cooperation between authorities of both countries of origin and destination, and the support to a victim should not end upon repatriation.

6.1 General information on cross-border cooperation against THB for labour exploitation at EU, multilateral and bilateral level

6.1.1 Multidisciplinary cross-border cooperation against THB for labour exploitation at EU level

In order to work together in an EU-wide manner, member states could examine opportunities for closer cooperation and for example:

- **Agree to strengthen multidisciplinary cooperation against THB for labour exploitation and to have further meetings on the subject within EMPACT THB:** Tackling THB for labour exploitation is one of the goals included in the Operational Action Plan of EMPACT THB (see Annex 1 for more information on EMPACT THB). An EMPACT meeting on the subject of THB for labour exploitation took place at Europol in July 2015 and included representatives of both police forces and labour inspectorates. The benefits of such meetings are that they enable police and labour inspectorates from different countries to come together and share knowledge on the phenomenon, trends and modus operandi, share operational information on the organised crime groups involved (supported by Europol) and discuss the development of a joint strategy to tackle THB for labour exploitation, such as joint actions or joint investigations. Good practises can also be shared.
- **Share signs of THB for labour exploitation with Europol's Focal Point Phoenix:** Since many cases of THB for labour exploitation involve two or more countries, member states could share signs of THB for labour exploitation via their National Desks at Europol for cross checks or only with Europol. Europol (through its Focal Point (FP) Phoenix) can build up the overall intelligence picture by operational analysis and operational overviews of trends and modus operandi. The analysis and cross-matches made by Europol could lead to cross-border cases being identified and help Europol to build a more

complete picture of the phenomenon in the EU. Some countries are allowed to share law enforcement information with Europol and other countries before an investigation has been started and are therefore able to do this. Other countries are only allowed to share information once an investigation has been initiated. (See paragraph Annex 1 for more information on FP Phoenix).

- **Share information from (national or joint) cases of THB for labour exploitation with Europol's Focal Point Phoenix:** If member states share information from an ongoing national or joint case of THB for labour exploitation with FP Phoenix, automatic cross-checks will be carried out, which could turn up (further) links with cases in other member states. It can help avoid a situation in which two or more countries are investigating the same person(s) without knowing it. If they are pursuing the same suspects, member states could decide to coordinate their cases or to set up a joint investigation. In addition to the cross-checks, Europol can also carry out an analysis of the information provided and advise the member state(s) on how to proceed with the case.

EXAMPLE

Europol support for Operation Mustily

In April 2015, Europol supported Operation Mustily, a British and Slovak investigation aimed at dismantling a criminal gang exploiting vulnerable people through forced labour. This large criminal network was suspected of trafficking adults and children to the UK for exploitation through forced labour and social benefit fraud. The victims originating from Slovakia were recruited with false promises of well-paid jobs and subsequently trafficked to several British cities where they were exploited. UK authorities initiated an investigation after receiving intelligence on an extensive THB for labour exploitation network from the Anti-Human Trafficking Unit of the Slovak National Department for Combating Illegal Immigration. The initial enquiry led to 10 linked investigations in different areas of the UK. Europol provided support throughout the investigation by analysing intelligence, organising operational meetings and facilitating the exchange of information between British and Slovak authorities. On the action day, Europol deployed mobile offices and forensic analysis tools to cross-check data in real time. Europol also financed the meetings within Mustily and provided financing for Slovak police officers to travel to the UK.

Partners involved in the cooperation

- Gangmasters Licensing Authority (GLA), UK
- National Crime Agency (NCA), UK
- Anti-Human Trafficking Unit of the National Department for Combating Illegal Immigration, Slovak Republic
- Europol
- UK Municipalities (e.g. Peterborough City Council)
- British Red Cross
- Salvation Army UK.

What makes this case successful?

During a nationwide action day in the UK, at least thirteen people were arrested and dozens of possible victims of THB for labour exploitation were taken to shelters.

- **Share new trends of THB for labour exploitation:** New trends of THB for labour exploitation that are identified in one country often spread to other countries. Member states can share information on new trends through meetings in Brussels or at Europol (e.g. EMPACT THB), Eurojust, Frontex and so on, so that other member states will know what to look for.
- **Participate in operational meetings at Europol:** Europol facilitates operational meetings between member states to discuss cooperation on criminal investigations. During these meetings, investigators from different MS can share operational and strategic information related to cross-border

investigations and define strategies to enhance results and tackle OCG's active in more than one MS, for example through parallel investigations or JITs. In addition to criminal investigation services such as the police, labour inspectorates can also be invited to these meetings. Annex 1 contains more information on operational meetings.

- **Participate in coordination meetings at Eurojust:** Judicial authorities (prosecutors and investigating judges), investigators from the member states and third states as well as representatives from other relevant organisations (e.g. Europol) could participate in coordination meetings to facilitate cooperation during the investigation and prosecution of cases of THB for labour exploitation. Annex 1 contains more information on coordination meetings.

EXAMPLE

A Eurojust case of THB for labour exploitation (2013)

The authorities of member state A conducted criminal investigations into an organised crime group involved in THB for labour exploitation. The victims were brought from member state B to member state A. The suspects offered the victims jobs in member state A with a promise of a monthly salary of EUR 800 and free accommodation, requiring only an agency fee of EUR 150. Upon arrival, the workers were handed over to foreign work agents and were put in a position of dependence, with the employers benefiting from the unfamiliarity of the victims with the job situation in member state A. Workers were exploited and forced to work illegally, mainly in the building industry, and were paid considerably less than the salary commonly paid for similar work.

Partners involved in the cooperation and their roles

During the course of the criminal investigation in member state A, a parallel criminal investigation by authorities in member state B into the same organised crime group became apparent. Eurojust was asked to facilitate the coordination of the investigations.

What makes this case successful?

Eurojust assisted in simplifying and accelerating the investigative and judicial cooperation between the authorities of the member states involved. Eurojust organised a coordination meeting during which the judicial authorities from member states A and B agreed to exchange information in real time and to coordinate. The measures foreseen included the setting up of a joint investigation team (JIT), wiretappings, surveillance of individuals and places, freezing of assets, facilitating photo recognitions, and providing witness statements taken from the trafficked victims. The JIT helped to clarify the criminal activities and to gather evidence without the need of formal requests for mutual legal assistance (MLA). The JIT was co-funded by Eurojust via the JIT Funding Project.

- **Establish more Joint Investigation Teams (JITs):** Member states could set up Joint Investigation Teams (JIT) for investigations into cases of THB for labour exploitation that are linked to two or more countries. See Annex 1 for more information on JITs.

EXAMPLE

United Kingdom – Romania JIT[89]

In December 2007, a JIT was set up between the Metropolitan Police Service (United Kingdom) and the Human Trafficking Centre of the Romanian National Police to investigate cases of trafficking involving hundreds of Romanian Roma persons – mainly children – exploited as beggars and thefts in London and in the nearby areas.

As a matter of fact, the British and Romanian law enforcement agencies had started to investigate these cases in early 2007 and, when they asked to be assisted by Europol and Eurojust, the latter suggested them to work together by establishing a JIT. The UK-Romania JIT was then initiated and funded for almost two years by the European Commission with the specific goals to investigate the trafficking cases and prosecute the criminals apprehended in the UK and in Romania; break the activities of the criminal networks profiting from human trafficking; confiscate the criminal assets and improve the British and Romanian police officers' skills as to the identification and assistance of child victims. The work of the JIT led to the identification and support of 272 victims and the arrest of 87 criminals charged for trafficking in human beings, child neglect, money laundering, and perverting the course of justice.

- **Cooperate on keeping in touch with victims who have returned home:** Multidisciplinary cooperation across borders is essential when victims of THB for labour exploitation decide to go home. See 4.1 for more information on cooperating when victims go home and Transnational Referral Mechanisms for victims.
- **Second an investigator from the responsible law enforcement agency, for example the labour inspectorate, to Europol:** Countries where the labour inspectorate has investigative powers could consider seconding a criminal investigator from the inspectorate to their liaison desk at Europol[90]. Countries where another service like the police is responsible for investigations into THB for labour exploitation could consider seconding an investigator who specialises in THB for labour exploitation to Europol. Their labour inspectorate could then cooperate and share information with Europol through this specialised liaison officer.
- **Organise joint action days:** During the Joint Action Days that are organised each year as part of EMPACT THB, activities could be organised to tackle THB for labour exploitation and both labour inspectorates and police forces could take part. The sharing of information on specific targets and trends is necessary to assist in the identification of shared interests in particular activities planned for such days.
- **Share trends of THB for labour exploitation with Frontex:** Frontex collects trends on THB for labour exploitation for the purpose of their EU Risk Profiles Handbook (3.2.4), which provides a list of indicators and risk profiles for EU states to use. If trends of trafficking are shared with Frontex, they can be included in their Handbook, which in turn will then reach all states using the Frontex Handbook during training or operation. Frontex may also use these trends to develop new possibilities for countermeasures to be taken by law enforcement, as distributed through their VEGA Handbook on the detection and disruption of criminal organisations involved in the trafficking of human beings and people smuggling at air borders. (See Annex 1 for more information on Frontex).
- **Create overviews of EU labour inspectorates, police forces and border guards and their mandates:** Member states could work together to discuss and create overviews of the responsible labour inspectorates, police forces and border guards (or other responsible entities) within the EU, including information on their mandates and contact details for different kinds of questions, including a service number which can be reached 24/7 in case of emergency or the inability to reach the primary responsible.
- **Create a website or portal, or use an existing one, on which all information regarding THB for labour exploitation can be brought together and shared with EU partners:** There are currently many different websites where information on THB for labour exploitation can be found, but they all contain only part of the relevant information. It could be useful to create a website where all relevant reports, handbooks, events and so on would be made available to the organisations involved. See Annex 1 for information about an example of a website that may be used for this, the Europol Platform for Experts (EPE).

89 Text taken from ICMPD 2012.

90 The Inspectorate SZW of the Netherlands has done this.

6.1.2 Bilateral and multilateral cross-border cooperation against THB for labour exploitation

Next to EU cooperation, bilateral and multilateral cooperation against THB for labour exploitation is of great importance. Member states could for example set up structural cooperation with the main destination and / or source countries of the victims they come across. In order to work together bilaterally and / or multilaterally, member states could examine opportunities for closer cooperation and for example:

- **Have regular bilateral meetings:** Source and destination countries could organise regular bilateral meetings to discuss their cooperation in general and in ongoing cases.
- **Second experts to embassies to improve operational cooperation:** Posting liaison officers to embassies from such agencies as the police, the border guards, the prosecution service or other (criminal) investigative services could have strong added value to solve cases of THB for labour exploitation and recognise patterns and trends.
- **Second staff temporarily to take part in inspections or investigations:** Police forces or labour inspectorates could second staff temporarily to join an investigation or inspection in another country. They could for example help to break down cultural and language barriers during interviews of migrant workers or victims from their country. They could share their knowledge about the situation in their own country, identify any violations of their own legislation and report this back to their organisation. Finally, they could help to collect evidence from their country. This would make it possible to inspect and / or investigate cases along the whole length of the supply chain. 6.3.2 contains a model from the UK for a joint cross-border inspection.
- **Raise awareness in source countries through embassy staff:** Destination countries could hire (local) staff members in the main source countries of victims of THB for labour exploitation to work as policy officers at their embassies. They could inform potential migrant workers about working in the destination country and thereby hopefully prevent problems. This dedicated staff member could also facilitate closer cooperation between the labour inspectorates of both countries and represent the country at conferences and other events. See 5.1.2 for an example of the work of such policy officers. If it is not possible to hire a dedicated staff member, embassies could be sent materials to distribute to potential migrants.

EXAMPLE

Information event for ambassadors, Malta

A training session for Diplomatic and Consular Staff took place within the framework of the Annual Ambassadors' and Biennial Honorary Consuls' Meeting organised by the Ministry of Foreign Affairs of Malta, which brought together Maltese Ambassadors and Honorary Consuls that represent Malta overseas. In 2015 the Ministry for Home Affairs and IOM provided the Diplomatic and Consular personnel with information on their role in identifying, protecting and assisting victims of THB, as well as on general global and regional trends, Maltese legal framework and context.

As a follow up to this event a leaflet is being drawn up, which will be translated in various languages, to be disseminated by the Diplomats and Consular Officers from their offices to persons who wish to come to work in Malta. The leaflet contains information about labour conditions and wages in Malta as well as awareness about exploitation and information about where to call for assistance.

- **Assist migrant workers in destination countries through labour attachés:** Source countries could introduce dedicated labour attachés at their embassies in the main destination countries, in order to assist workers from their countries with any problems they may run into regarding living and working in the destination country, for example regarding health insurance, pension arrangements and so on. This could include helping workers that have become victims of THB for labour exploitation. The attachés could also facilitate cooperation between the labour inspectorates of both countries.

EXAMPLE

Social and labour attachés, Bulgaria

Bulgaria has social and labour attachés of the Ministry of Labour and Social Policy (MLSP) at Bulgarian Embassies abroad. These attachés have knowledge of the Bulgarian and foreign laws governing social policy and employment relations. They can help to identify victims of THB for labour exploitation and refer them to the right organisation.

- **Sign (bilateral) MoUs:** Organisations such as prosecution services, police forces or labour inspectorates could draw up (bilateral) Memoranda of Understanding (MoUs), in which they agree to improve cooperation and the exchange of information.
- **Organise study visits or exchanges:** The relevant organisations (such as labour inspectors) could organise a study visit to another member state, in order to become better acquainted with each other's systems and improve personal contacts.
- **Organise joint seminars for source and destination countries:** Source and destination countries could organise bilateral seminars or conferences, to inform a larger group of staff members about the relevant powers and working procedures in both countries and about the situation regarding THB for labour exploitation.
- **Share expertise on training:** Source and destination countries could share their ideas about and materials for training or even consider organising a training exchange. All countries share similar challenges; joint training enables them to learn from each other.

6.2 The role of prosecution services in cross-border cooperation

In order to strengthen cross-border cooperation, prosecution services could:

- **Import Article 13 notification forms into the Eurojust Case Management System (CMS):** Article 13 of the Eurojust Decision[91] lists a set of specific circumstances in which the member states are obligated to report a minimum level of information to Eurojust in a structured manner. By importing Article 13 notification forms about THB for labour exploitation into the Eurojust Case Management System, prosecutors can verify the existence of links with the information already stored in the CMS[92].
- **Agree which member state will prosecute:** When prosecutors cooperate on a case of THB for labour exploitation, they could decide early on which country will prosecute the case in order to be efficient and avoid duplication of effort.

EXAMPLE

Transfer of criminal proceedings from one country to another

In a case involving Bulgaria and the Netherlands, both countries encountered difficulties proving the offence of money laundering linked to trafficking in human beings. "It was initially agreed at Eurojust that one country would investigate the offence of THB and the other country the offence of money laundering linked to the THB. However, during a coordination meeting at Eurojust, it came to light that difficulties had been encountered in relation to securing convictions for money laundering in the absence of evidence of the underlying predicate offence.

[91] Council Decision 2009/426/JHA.

[92] Eurojust 2014.

A solution was found, where the authorities agreed to transfer the criminal proceedings from the country that initially investigated the money laundering offences to the other country that had in place legal mechanisms that allowed the prosecution of money laundering without the need to prove the predicate offence"[93].

6.3 The role of labour, social, health and other inspectorates in cross-border cooperation

Since most labour inspectorates do not have investigative powers, they can only cooperate on labour law, not on criminal law. They could for example cooperate on:

- joint inspections of companies in the destination country, including interviews with workers;
- parallel investigations (under labour law) in the source and destination countries;
- exchange of information on companies (employers) situated in other countries, for example on violations that companies have committed;
- posting constructions.

Posting constructions seem to be used increasingly as a cover-up for illegal labour, for example by setting up letterbox companies from which workers are posted to other countries where they have to work in exploitative conditions or by forcing workers into a self-employed statute. Cooperation on any of these subjects could lead to the discovery of a case of THB for labour exploitation, which in most countries will require that the police become involved.

6.3.1 Cross-border cooperation between inspectorates at EU level

In order to improve cross-border cooperation between labour inspectorates against THB for labour exploitation at EU level, they could:

- **Take part in meetings of EMPACT THB:** See Annex 1 for more information.
- **Send labour inspectors to take part in operational and coordination meetings at Europol and Eurojust:** Funding for labour inspectors to take part in operational meetings could be provided under EMPACT or by Europol (see Annex 1 for more information).
- **Share information through the different systems available:** In order to cooperate against THB for labour exploitation, labour inspectorates need to be able to share information. For example, when companies are active in several member states, it could be useful to inform the labour inspectorates in those other countries when the company has been sanctioned for breaches of labour law[94]. Before exchanging information with other countries, it may be necessary to find out if this is allowed under the rules for data protection. When labour inspectorates want to contribute to cross-border cooperation against THB for labour exploitation, they could share their information through Europol:
  - SIENA: Europol has indicated that it should be possible for labour inspectorates to exchange information using SIENA through the Europol liaison desks. Labour inspectorates could pass information to their national police force, and can they pass it to their Liaison Desk in turn. This way labour inspectorates' information becomes police information and can be shared with others through SIENA.
  - FP Phoenix: It would be possible to include information from labour inspectorates in Europol's database to be used by FP Phoenix. Information from labour inspectorates can be included in the same way that it can be exchanged through SIENA.
  - EIS: Labour inspectorates could also share information with the Europol Information System (EIS) in the same way as described for FP Phoenix.

  Annex 1 contains more details on all these information systems.

[93] Text taken from Eurojust 2014, p. 14.

[94] HEUNI 2014.

- **Second an investigator from the labour inspectorate to Europol:** See 6.1.1 for more information.

6.3.2 Bilateral and multilateral cross-border cooperation between inspectorates

In order to improve bilateral and multilateral cross-border cooperation between labour inspectorates against THB for labour exploitation, they could:

- **Have joint or parallel inspections:** Paragraph X explains what the advantages of carrying out joint inspections could be. Parallel inspections that are carried out in two or more countries can also be useful, for example to compare the explanations provided for the labour situation by different branches of the same company in different countries. If the explanations do not match, there may be something wrong.

EXAMPLE

Undertaking joint cross-border inspections, the UK model

Where a labour inspectorate in a destination country identifies that the exploitation of workers from a source country is being committed by individuals in both the destination and source countries, an opportunity for a joint inspection will arise.

- Where the source country is one that has a dedicated labour attaché in the destination country, they could be contacted to assist in liaison on the investigation and to facilitate contact with the labour inspectorate.
- If there has been previous contact with the source country labour inspectorate, a single point of contact and an agreement on joint investigation and sharing of information may have previously been established, and should therefore be followed.

It is important to be clear on the objectives of the investigation to be carried out under labour law, the targets, and why support from the source country labour inspectorate is required. Such support will generally be necessary to:

- Identify whether the individuals/company in the source country are correctly registered/licensed in the source country;
- Establish whether they are under investigation, or have been investigated, and if so for what purpose and what the outcome was;
- Propose any inspection of source country businesses, and identify when such inspections might occur to assist the investigation under labour law;
- Identify whether the alleged conduct of the source country business constitutes any criminal offences in that country, and
- Advise what labour law breaches or criminal offences are being committed in the destination country, which may be facilitated by deceptive recruitment from the source country.

The above information should be provided in a briefing document to the source country organisation. It should set out:

- the key issues to determine as part of the investigation,
- the proposed investigation approach,
- the timescales proposed for the investigation, including when any inspection in the source country may be sought,
- any risks to the organisation of any premature inspection in the source country, to avoid such activity adversely affecting the proposed investigation and the ability to secure evidence of offences.

Once a joint inspection and allocation of destination and source country inspectors is agreed, an operational plan should be developed covering the locations to be visited, when, by whom, under what powers, etc. It is important that it is clear to both parties what inspection powers each has and how they will be used. This will be different where source country inspectors attend inspections in the destination country, and vice versa, since they will be outside their jurisdiction and act as observers. Where joint inspections identify offences under one or both jurisdictions, liaison should occur with police officers in both countries, with Europol liaison officers and with Eurojust to determine whether there is a basis for a criminal investigation to be formally constituted as a Joint Investigation Team (JIT).

Legal advice should be taken before labour inspectors arrange any interviews outside of their own jurisdiction, for example of victims or suspects. This is needed to ensure that any evidence obtained by the interview, including on their behalf by the other labour inspectorate, is admissible as evidence.

At the conclusion of the inspection, a report of the joint activity should be compiled as a "lessons learnt" review, to identify best practice, and any activities that would need to be dealt with differently on future joint operations.

Further reading

- International Centre for Migration Policy Development, Stepping Up the Fight against Trafficking for Labour Exploitation, Vienna, 2013[95].

6.4 The role of NGOs in cross-border cooperation

In order to further cross-border cooperation, NGOs could:

- **Strengthen cross-border NGO networks:** Cross-border cooperation among NGOs involved in the prevention of THB and providing assistance and support to victims takes place at EU-wide and at regional level.

EXAMPLE

EU Civil Society e-Platform against Trafficking in Human Beings

The EU Civil Society e-Platform against Trafficking in Human Beings is a space for discussion, sharing of information, exchanging good practices and linking organisations providing services and assistance to victims, aimed at ensuring a regular dialogue amongst civil society organisations working on THB. There is also an EU Civil Society Platform against Trafficking in Human Beings that meets twice a year. See Annex 1 for more information.

[95] ICMPD 2013.

EXAMPLE

La Strada International

Regionally, La Strada International (LSI) is a network of NGOs from eight countries that work on THB, with the aim to promote human rights based preventive and protective policies in those countries, ensuring that the rights of trafficked persons and at-risk groups are protected in practice. LSI aims to develop the capacity of the member organisations and other stakeholders to provide better services to trafficked persons and at-risk groups, and to empower these persons and groups to improve the quality of their lives.

6.5 The role of embassies in cross-border cooperation

Embassies could:

- **Help to bridge differences in culture and organisation:** Embassies are important connecting links and communication channels between countries. Source and destination countries that wish to develop cooperation against THB for labour exploitation sometimes face cultural and organisational differences. Embassies can help explain these differences and identify the relevant counterparts , thereby paving the way for closer cooperation.
- **Coordinate their approach with embassies and consulates of EU and / or Schengen countries:** Traffickers are very adept at directing their victims to apply for visa at the Schengen embassy or consulate where they believe they have the best chance of success. The idea being that once inside the Schengen zone, they can always move their victim from one country to another. To prevent such visa shopping, it is important for the embassies of EU and / or Schengen countries in a third country to keep each other informed on the basis of trends, detected by the relevant authorities in the member states, and coordinate their approach. More broadly, embassies could also consider coordinating their activities regarding projects for awareness-raising and / or capacity-building which they fund in the host country. This kind of coordination could for example be set up in the priority third countries and regions that the EU adopted in December 2012, in order to develop more concrete partnerships to address THB.[96]
- **Engage in a dialogue with authorities and civil society in their host country:** Since some parts of the trafficking process may take place in the country of origin and other parts in the country of destination, the solutions to the problem may also need to be implemented in both countries. Embassies could help the authorities responsible in both countries to coordinate their response, for example by inviting stakeholders around the table and organising networking events to support multidisciplinary and cross-border cooperation Contacts with civil society in the country of origin may for example lead to signs of THB or facilitate contact between victims and the authorities.

EXAMPLE

Regular Dialogues with Stakeholders: the Dialogue Series on Human Trafficking, the Netherlands embassy in the Philippines

The embassy of the Netherlands in the Philippines has institutionalised bilateral dialogues on human trafficking with Philippine government agencies as well as wider multi-sectoral dialogues (the Manila International Dialogues on Human Trafficking) involving the international community and civil society in the country.

[96] Council of the European Union, Action-Oriented Paper on strengthening the EU external dimension on action against trafficking in human beings – second implementation report / update of information on member states' external action, 13661 / 3 / 12 REV 3, 2012.

The aim of these dialogues is to facilitate the exchange of best practices and information and to encourage more partners (particularly international players) to recognise their roles in preventing trafficking in human beings, for example through the visa process, sharing information with local authorities and giving support to non-governmental organisations through small projects.

Partners involved in the cooperation and their roles:

- Manila-based embassies, for example the EU Delegation and embassies of EU member states and ASEAN countries;
- Philippine authorities, namely the Departments of Justice, Foreign Affairs and Labour, the Philippine National Police, the Anti-Money Laundering Council and the Philippine Overseas Employment Administration;
- NGOs working on children, women and overseas workers rights.

What makes this practice successful:

- Building networks and creating a good relationship with partners eases the flow of and exchange information, including in criminal investigations. This is important, especially in such a complex and transnational issue involving international players;
- Getting the highest officials of different organisations, including embassies, around the table has created an empowering environment for those that work on the ground (police officers, policy officers, community workers etc.) by validating the importance of the work that they do;
- Authorities and organisations in the Philippines now have a venue to express where support from the international community is needed the most and also what is the most effective way of dealing with particular cases (for example, the Department of Justice has guided the embassy of the Netherlands on how to expedite requests for legal assistance).

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Annex 1
The role of the European Union, EU agencies and EU instruments in addressing trafficking in human beings for labour exploitation

At the level of the European Union, there are many organisations involved in addressing THB for labour exploitation, many instruments available to member states to fight and prevent THB and several fora where THB is discussed. In order to effectively address THB for labour exploitation, it is important that the member states' ministries and implementing bodies make optimal use of these organisations, instruments and fora. The most relevant ones are listed below.

1 General EU instruments regarding THB

a) The informal network of National Rapporteurs and / or Equivalent Mechanisms
Pursuant to Council Conclusions[97], an informal EU network of National Rapporteurs and / or Equivalent Mechanisms was established in 2009. Rapporteurs and representatives of the equivalent mechanisms of the member states meet twice a year to discuss the latest developments in the field of combating THB. The aim of the network is to improve the understanding of the phenomenon of THB and to provide the Union and its member states with objective, reliable, comparable and up-to-date strategic information.

b) Civil Society Platform and e-Platform
In 2013, the European Commission launched the EU Civil Society Platform against trafficking in human beings. The platform serves as a forum for selected civil society organisations working at European, national and local levels, in the field of human rights, children's rights, women's rights and gender equality, migrants' rights and shelters. The meetings can be used to exchange experiences and ideas on how to best assist victims, expand the NGOs' networks, and prevent others from falling victims to this crime. The Commission organises two meetings of the platform a year.
For information on the Civil Society e-Platform, that includes even more NGOs, see 6.4.

c) EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016)
In addition to legislation, the European Commission has also drawn up a policy document on THB. The "EU Strategy towards the Eradication of Trafficking in Human Beings (2012 - 2016)"[98] focuses on concrete actions that will support and complement the implementation of the anti-trafficking directive. The fourth action in EU strategy outlines the actions on THB for labour exploitation. The European Commission targets THB for labour exploitation by:

[97] Council of the European Union, Council conclusions on establishing an informal EU Network of National Rapporteurs or Equivalent Mechanisms on Trafficking in Human Beings, 4 June 2009.

[98] European Commission 2012.

- funding a study of case law in all member states to increase the number of cases of THB for labour exploitation that are investigated and prosecuted and to improve the quality of the investigation and prosecution of such cases; this study was published on 20 October 2015[99];
- developing a best practice guide for public authorities on the monitoring and enforcement of temporary work agencies and intermediary agencies such as job recruitment agencies to prevent trafficking in human beings[100]; and
- strengthening cooperation with labour, social, health and safety inspectors, as well as fisheries inspectors, in relation to the identification and referral of victims of human trafficking and in raising awareness and training.

In the European Agenda on Security[101], published in April 2015 , the European Commission writes that it intends to develop a post-2016 strategy.

d) Website "Together against Trafficking in Human Beings"
The Commission has a website called "Together against Trafficking in Human Beings"[102], which includes information on for example EU legislation, EU policy, the activities of EU member states and EU activities in third countries. It is aimed at both practitioners and the general public.

2 The role of the JHA agencies in the fight against THB for labour exploitation

Many EU agencies are involved in addressing THB for labour exploitation. In October 2011, the Heads of the EU Justice and Home Affairs (JHA) agencies CEPOL, Eurojust, Europol, FRA, Frontex, EASO (European Asylum Support Office) and EIGE (European Institute for Gender Equality) signed a statement[103] in which they announced a joint commitment to address THB in a coordinated, coherent and comprehensive manner. The role of the first five of these JHA agencies in addressing THB for labour exploitation is explained below.

a) The role of Europol in the fight against THB for labour exploitation
Within the framework of EU law enforcement cooperation, Europol supports the EU member states (MS) in preventing and combating all forms of serious international crime and terrorism, including THB for labour exploitation. Correspondingly, Europol functions as a centre of expertise for strategic and operational intelligence and as an information hub for criminal data concerning the most threatening organised crime groups (OCGs) active in the EU. As such, it is responsible for:
- Proposing recommendations for the multi-annual EU Policy Cycle on serious and international organised crime (based on the Serious and Organised Crime Threat Assessment, SOCTA);
- Supporting the related EMPACT projects at operational, logistic and administrative level (through the relevant Focal Points (FPs) and the EMPACT Support Unit); see 3 for EMPACT THB and FP Phoenix;
- Assisting MS law enforcement authorities in cross-border and high-level investigations;
- Providing a secure and user-friendly communication and message exchange system for operational and strategic crime-related information amongst member states, Europol and Europol's cooperation partners;
- Offering analytical and operational assistance during coordinated operational actions across the EU.

99 European Commission 2015b.

100 Eurofound is coordinating EU-wide research into how labour market intermediaries (LMIs) are regulated to avoid unlawful recruitment and exploitative working conditions. The report also looks at the role the social partners play in helping to prevent trafficking of workers. The report is expected in early 2016.

101 European Commission 2015a.

102 The address of the website is http://ec.europa.eu/anti-trafficking/.

103 Joint statement of the Heads of the EU Justice and Home Affairs Agencies, 2011.

In addition to the financial, logistical and operational support provided to MS' law enforcement authorities, Europol can also assist MS' investigative activities and prosecution of traffickers by enhancing the intelligence picture on criminal phenomena and by providing training to law enforcement units and experts.

b) The role of Eurojust in the fight against THB for labour exploitation

Eurojust is the EU's judicial cooperation unit. Its mission is to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more EU member states. To this end, Eurojust facilitates the execution of requests for, and decisions on, judicial cooperation, in particular the execution of international mutual legal assistance and the implementation of European Arrest Warrants and extradition requests.

Eurojust can, inter alia, assist in identifying parallel proceedings in the member states and competent authorities needed to ensure effective cooperation. Furthermore, Eurojust can help national practitioners to clarify differences in legal systems (e.g. legal standards for the hearing of witnesses, wiretapping, disclosure procedures), to exchange information on ongoing investigations, to decide which jurisdiction is best placed to prosecute, to set up and fund Joint Investigation Teams (JITs), to coordinate common action days (e.g. for simultaneous searches, arrests, or seizures in different member states) and to resolve practical issues of cross-border cooperation.

The coordinating role of Eurojust is particularly important in the fight against THB, as this type of crime is often cross-border and complex. The fight against THB is one of Eurojust's operational priorities. A dedicated Eurojust Trafficking and Related Crimes Team has been set up in providing expertise, ideas, and best practice in judicial cooperation to assist the competent authorities of the member states in their efforts to combat trafficking-related crimes.

In 2012, Eurojust's Trafficking and Related Crimes Team initiated a strategic project, Eurojust's action against trafficking in human beings. The main objective of the project is to identify and address the reasons underlying the small number of THB prosecutions in the European Union, and to analyse obstacles in judicial cooperation in THB cases. The fight against THB for labour exploitation constitutes one of the focuses of the strategic project for 2015 - 2016. A questionnaire sent to the member states addressing this form of THB and a Eurojust THB strategic meeting held in April 2015 explored in detail the main issues in prosecuting THB for labour exploitation and in judicial cooperation in this area[104].

c) The role of Frontex in the fight against THB for labour exploitation

Frontex promotes, coordinates and develops European border management in line with the EU fundamental rights charter applying the concept of Integrated Border Management. Frontex helps border authorities from different EU countries to work together, also in the field of trafficking in human beings.

When it comes to trafficking in human beings, Frontex supports the member states during operations at the external borders of the EU, in capacity building and concerning risk analysis. The main activities of Frontex in the fight against THB are awareness raising activities and activities related to the prevention of the crime by initiating the identification process, and therefore giving the competent authorities the first possibility to protect the victim and to start further investigation. To develop their products and tools, Frontex uses the expertise of member state officials as well as that of other EU JHA Agencies and International Organisations.

Member states can use the Frontex training tools in their national training programs and to raise awareness within their border guard community. The Frontex Handbook on Risk Profiles on Trafficking in Human Beings (see para 3.2.4) assists border guards at air, land and sea borders in the identification of

[104] The findings of the questionnaire and the report of the strategic meeting are available on Eurojust's website, together with detailed information on Eurojust's THB strategic project: http://www.eurojust.europa.eu/Practitioners/operational/THB/Pages/THB-project.aspx.

potential victims of trafficking, especially during first- and second-line checks on entry into the EU and Schengen Associated Countries.

To fight THB for labour exploitation, Frontex has incorporated specific material outlining the characteristics of THB for labour exploitation as well as detailed indicators to recognise these characteristics in the working material of the Frontex capacity building programme. Additionally, in the Frontex Handbook on Risk Profiles on THB, some of the third-country national profiles presented are related to THB for labour exploitation and could therefore be used by first-line responders to identify the phenomenon.

d) The role of CEPOL in the fight against THB for labour exploitation
CEPOL, the European Police College, is the EU agency tasked with organising training for police officers in member states of the EU. It brings together police officers across Europe to encourage cross-border cooperation in the fight against crime and in maintaining public security and law and order by providing learning and training opportunities for law enforcement officers throughout the EU. In order to fulfil this mandate and achieve its aims, CEPOL works closely together with the member states, the JHA Agencies and other stakeholders at international level.

CEPOL has been contributing to the EU Policy Cycle priorities (see 3) and consequently has been participating in the planning of the Operational Action Plans since 2012. By aligning its activities with the requirements thereof CEPOL ensures that its products reflect the training needs as expressed within the EMPACT groups (see 3). All priority topics are supported with training packages as indicated in the Operational Action Plans. CEPOL offers focused learning opportunities such as courses, seminars, exchange events, webinars, online modules, common curricula and training material for use within national training as described above. Consequently this is also valid for the EMPACT group on Trafficking in Human Beings.

Training on THB for labour exploitation is particularly important in the context of enhancing multidisciplinary and cross-border cooperation to combat this type of crime. Hence CEPOL has contributed to the project on THB for labour exploitation of the EMPACT group (OAP 2015, Action 4.1) by organising webinars on THB, including for labour exploitation, in 2014 and 2015 and a training activity organised by Sweden (see “CEPOL Training activity on THB for labour exploitation” in 5.2.2), and it will continue to do so in the future in accordance with learning and training requirements expressed by the member states and the EMPACT Group. Information on learning and training activities can be found on www.cepol.europa.eu.

e) The role of the FRA in the fight against THB for labour exploitation
The European Union Agency for Fundamental Rights (FRA) is one of the EU’s decentralised agencies. Through the collection and analysis of data in the EU, FRA provides evidence-based advice to the EU institutions and EU member states to support them in understanding and tackling challenges to safeguard the fundamental rights of everyone in the EU, including victims of crime.

5.3 contains information on the FRA’s report Severe labour exploitation: workers moving within or into the European Union – States’ obligations and victims’ rights.

3 EU instruments that may be used for law enforcement cooperation against THB for labour exploitation

a) EMPACT THB
EMPACT (the European Multidisciplinary Platform against Crime Threats) THB is a multilateral operational cooperation platform of 25 EU member states, Switzerland, Europol, Eurojust, CEPOL, Frontex and Interpol to coordinate the efforts of EU member states in the fight against trafficking in human beings at EU level. The aim of this project is “to disrupt organised criminal groups involved in

intra-EU human trafficking and human trafficking from the most prevalent external source countries for the purposes of labour exploitation and sexual exploitation; including those groups using Legal Business Structures to facilitate or disguise their criminal activities". As part of EMPACT, various meetings are organised to promote cooperation, share knowledge, discuss strategies and actual cases for joint investigations. The fight against THB for labour exploitation is one of the actions in the Operational Action Plan (OAP) of EMPACT THB. The EMPACT meeting on THB for labour exploitation held on 7-8 July 2015 was intended to facilitate the implementation of this action. Both police officers and labour inspectors took part.

The EMPACT projects were set up to implement the nine priorities for the fight against organised crime in the period 2014 - 2017 that the Justice and Home Affairs Council established in 2013 (within the framework of the EU policy cycle). The priorities were chosen on the basis of Europol's Serious and Organised Crime Threat Assessment (SOCTA). EMPACT THB is supported by Europol's Focal Point Phoenix.

b) Joint Investigation Teams

The possibility of setting up a Joint Investigation Team (JIT) between member states is provided for in Article 13 of the 2000 EU Mutual Legal Assistance Convention[105] and in the 2002 Framework Decision on joint investigation teams[106]. A JIT is a team set up on the basis of an agreement between the competent authorities of two or more member states for a specific purpose and a limited period to carry out criminal investigations in one or more of the participating member states. Its members are usually prosecutors and law enforcement officers. The team is led by a person from the member state in which the JIT operates. The members carry out their tasks under the leadership of the JIT leader, taking into account the conditions set by their own authorities in the JIT-agreement and the national laws of the territory in which the investigation takes place.

A JIT offers the possibility to quickly share information, including evidence to be used in court, and to request investigative measures between JIT-members without the need for a formal request for mutual legal assistance. Seconded members of the of the JIT are entitled to be present during house searches, interviews, etc. in the member state of operation. This could for example help to overcome language barriers with victims. It can thus help to optimise the investigation and prosecution strategies and can contribute to the mutual trust between authorities of the member states. Eurojust can provide a financial contribution to set up a JIT[107]. It also hosts the secretariat of the Network of National Experts on Joint Investigation Teams (JITs Network) that was established in July 2005.

Further information on JITs:

- The Joint Investigation Manual[108] by Europol and Eurojust
- Model Agreement for setting up a JIT[109]

c) Coordination meetings at Eurojust

Coordination meetings organised by Eurojust are vital tools for national prosecutors and investigators in cross-border cases. These meetings bring together both law enforcement and judicial authorities from member states and third States involved in the case, as well as representatives from other relevant EU partners (e.g. Europol). They offer the opportunity to all the representatives from the authorities involved to personally meet each other and build a solid working relationship. Coordination meetings are planned by Eurojust to provide for the exchange of information on linked investigations and for coordinating operational action. Eurojust offers its facilities, as well as accommodation and travel reimbursement,

[105] Council Act 2000/C 197/01.

[106] Council Framework Decision 2002/465/JHA.

[107] See http://www.eurojust.europa.eu/Practitioners/JITs/Eurojust-JITsFunding/Pages/Eurojust-JITs-funding.aspx for information on JIT funding.

[108] Eurojust and Europol 2011.

[109] Council Resolution of 26 February 2010 on a Model Agreement for setting up a Joint Investigation Team (JIT), OJ C 70, p, 1.

translation services and expertise in judicial criminal matters to national authorities. Eurojust can facilitate and coordinate criminal cases from the beginning of an investigation up until the final court decision.

d) Operational meetings at Europol

Europol facilitates operational meetings between member states to discuss cooperation on criminal investigations. During these meetings, investigators from different MS can share operational and strategic information related to cross-border investigations and define strategies to enhance results and tackle OCG's active in more than one MS for example through parallel investigations or JITs. In addition to criminal investigation services such as the police, labour inspectorates can also be invited to these meetings.

e) Focal Point Phoenix

Focal Point (FP) Phoenix is an operational project within Europol that focuses on trafficking in human beings. Its purpose is to support member states' competent authorities in preventing and combating all forms of criminality within Europol's mandate associated with THB. The support that FP Phoenix provides to national law enforcement authorities ranges from logistical and operational assistance during live investigations to the collection of information and intelligence from the member states' and other associates' law enforcement agencies and strategic analysis.

Data can be supplied to FP Phoenix by the Europol National Units (part of MS police forces) or, depending on the degree of urgency, directly by the designated competent authorities. Only Europol's analysts are authorised to input data into FP Phoenix and to modify such data. All participants in the analysis group may retrieve data from it. The data may include personal data, such as information on the residence, ID, physical description and finances of the suspect, contacts with individuals or companies and previous convictions. Data on victims and witnesses may also be included.

When data is included in FP Phoenix, automatic cross-checks are carried out, which could reveal links with cases in other member states. If such links exist, member states could decide to coordinate their cases or to set up a joint investigation. Europol's analysts can also analyse the information provided and advise the member states on how to proceed with the case. The analysts could for example map the structure of the criminal organisation, provide an overview of the main players and investigate financial transactions.

Since its opening in 2007, FP Phoenix receives an increased number of contributions from its operational partners every year. This results in a significant increase in the assistance provided by Europol to MS law enforcement authorities, particularly in terms of organisation, facilitation and financial support provided to operational meetings, dissemination of analytical reports and provision of on-the-spot assistance during operational actions through the deployment of mobile offices and Universal Forensic Extraction Devices (UFEDs). Although it is commonly under-reported, THB for the purpose of labour exploitation is currently the second most prevalent form of exploitation reported by MS to Europol.

f) Focal Point Sustrans

This focal point is Europol's operational platform dedicated to support MS on-going cases in the area of money laundering. The information that FP Sustrans is allowed to receive, process and analyse relates to Suspicious Transaction / Activity Reports (STRs) filled with National FIU reports on cash detections (usually dealt with by customs) and on-going money laundering cross border investigations across the EU and beyond. All data submitted to FP Sustrans is compared with Europol's databases, including open sources, in order to identify possible cross-links with other investigations. Additionally, FP Sustrans can also provide more tailored operational support and advice to MS on identifying and disrupting money laundering and other serious forms of international financial crimes.

g) EIS: the Europol Information System
The Europol Information System (EIS) is Europol's central criminal information and intelligence database covering all of Europol's mandated crime areas. It is a reference system which provides Europol and its member states with a rapid means to verify whether information on a certain person or another object (such as a car, telephone or email address) of interest is available in other member states, cooperation partners or at Europol. The purpose is to look for matches with a view to enhancing intelligence and providing new leads for further investigations.

As a general rule, Europol and the Europol National Units of the member states may directly input data into the EIS and access the data stored in it, but access may be limited by the owner of the information on a case by case basis. Since the EIS is a reference system, the data that can be included is more limited than the data that can be included in FP Phoenix. Data on suspects can be included, but data on victims, witnesses, contacts or associates cannot. The types of personal data that can be included in the EIS are also more limited.

The EIS interface supports 23 languages, allowing users to work with the system in their own language.

h) SIENA: the Secure Information Exchange Network Application
SIENA is Europol's secure and user-friendly communication and message exchange system. It is used to manage the exchange of operational and strategic crime-related information and intelligence amongst member states, Europol and Europol's cooperation partners. Member states for example use SIENA to supply data to FP Phoenix.

i) Europol Platform for Experts (EPE)
The Europol Platform for Experts (EPE) is a secure web platform to share knowledge, best practices and non-personal data on crime. The EPE hosts a variety of online communities dedicated to specific fields of law enforcement, including one dedicated to THB. It contains several functionalities, such as a library (for manuals, best practices and so on), a message forum, a calendar (which includes meetings, conferences etc), a wiki and a blog.

Access to a specific online expert community is granted, by invitation only, to authorised experts in the field. Authorised users range from closed groups of law enforcement officials to large informal networks of contacts including non-law enforcement officials, experts from academia and the private sector. It may be worthwhile to find out if labour inspectors could join the EPE to share knowledge on THB for labour exploitation.

Annex 2
Some statistics on THB for labour exploitation

Eurostat has published two statistical working papers containing statistics from the EU member states on trafficking in human beings: one in 2013, covering the years 2008 - 2010, and one in 2014, covering the years 2010 - 2012. Although the comparability of the statistics of the member states is limited[110], due to issues such as differences in definitions and collection methods, the working papers do provide some idea of the situation regarding THB for labour exploitation. Possibly indicative of limited awareness, reporting and / or investigation around THB for labour exploitation, all member states reported (identified or presumed) victims of trafficking for sexual exploitation in 2012, but only twenty member states reported victims of THB for labour exploitation[111]. Six member states reported there were no victims of THB for labour exploitation in 2012[112]. Additionally, of the 15 member states able to provide data on prosecutions by form of exploitation, all 15 reported prosecutions for THB for sexual exploitation during 2010-2012, but only 7 reported prosecutions for THB for labour exploitation[113].

In 2010 - 2012, 19% (4743) of all *registered victims of THB in the EU were victims of THB for labour exploitation*[114]. Although THB for the purpose of sexual exploitation is the most prevalent form of trafficking, the number of victims of labour trafficking has been rising. As a percentage of the total number of identified or presumed victims in the EU, the number of victims of THB for labour exploitation has gone from 28% in 2008[115] down to 15% in 2010 and then up again to 20% in 2012. However, in real terms, this represents an increase from 900 victims of THB for labour exploitation in 2008, up to 1024 in 2010 and 1983 in 2012. While this may be partly due to the fact that in 2012 more member states were able to provide this data than in 2008 (26 states compared with 16), it may also reflect improvements in the identification of cases linked to growing awareness that THB for labour exploitation is a problem that deserves serious attention.

When looking at the figures about individual member states in the Eurostat working paper, the picture varies substantially. In most countries, victims of sexual exploitation make up the largest group of identified and / or presumed victims. In some countries however, the majority of identified and / or presumed victims are victims of THB for labour exploitation; in 2012 this was the case in Belgium, the Czech Republic, Estonia and Finland[116]. In the UK the balance seems to be shifting. Victims of sexual exploitation used to make up the largest group of potential victims in the UK, but for the year of January - December 2014 victims of THB for labour exploitation outnumbered them for the first time[117]. As

[110] Eurostat 2014, p. 14.

[111] Eurostat 2014.

[112] No disaggregated data were available for two member states. Eurostat 2014.

[113] Eurostat 2014.

[114] Based on data from 22 member states which provided data for all three years. Eurostat 2014.

[115] Eurostat 2013.

[116] Eurostat 2014.

[117] When taken together, potential victims of labour exploitation and domestic servitude make up 47% (1093) of all (2340) potential victims referred to the UK National Referral Mechanism in 2014, whereas victims of sexual exploitation make up 36% (830). National Referral Mechanism Statistics – End of Year Summary 2014, NCA, see http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/502-national-referral-mechanism-statistics-end-of-year-summary-2014?path=.

mentioned in the introduction, it is difficult to say whether statistics like these represent the real situation, due to the hidden nature of trafficking in human beings. Most victims of THB in general identified within the European Union are EU-citizens (65% in 2010 - 2012[118]).

When it comes to EU cooperation against THB for labour exploitation, 5 % of the contributions[119] on THB to Europol's Focal Point Phoenix (see Annex 1) in 2014 concerned labour exploitation. Of the 71 THB cases registered by Eurojust in 2014, 12 (i.e. 17%) were cases of labour exploitation.

[118] Eurostat 2014.

[119] These contributions can differ in size; each time a member state sends information to Europol, no mattter how little or how much, this counts as one contribution.

Annex 3
International and EU legislation on THB for labour exploitation

The first comprehensive international definition of THB (referred to as “trafficking in persons”) was provided in article 3(a) of the UN Palermo Protocol of 2000 to prevent, suppress and punish trafficking in persons, especially women and children[120].

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force of other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”.

Article 3(a) also provides a definition of exploitation:
“Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

This definition makes clear that the Palermo Protocol considers labour exploitation to be one of the forms of exploitation that THB can be aimed at. However, no further explanation is given of what is meant by “forced labour or services, slavery or practices similar to slavery, servitude”. The preparatory materials to the Protocol, however, do refer to the then already existing Conventions elaborating these concepts.

The Council of Europe Convention on Action against Trafficking in Human Beings[121] was adopted in 2005. The definition of THB provided in article 4(a) of this Convention is identical to that in the Palermo Protocol.

The Convention itself does not elaborate on what labour exploitation is, but paragraphs 90 - 95 of the Explanatory Report on the Convention specifically address the definitions of forced labour or services, slavery or practices similar to slavery and servitude. They refer to the fact that the authors of the European Convention on Human Rights (ECHR) used the ILO Convention concerning Forced or Compulsory Labour (No.29) of 29 June 1930 as their model, which describes as forced or compulsory “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. In addition, the report explains that “a human trafficking victim’s consent to a form of exploitation” is irrelevant (article 4(b)) if any of the means (i.e. forms of coercion) has been used.

According to case law of the European Court of Human Rights[122], the words “forced labour” are “to be given a broad meaning” and encompass “the concept of forced services”. Slavery is not defined in the Convention but the Explanatory Report refers to the “many international instruments” that “define or deal with slavery and practices similar to slavery”[123].Finally, when it comes to “servitude”, the European

[120] UN Protocol to Prevent, Suppress and Punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organised Crime, Vienna 2000.

[121] Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw 2005.

[122] Van der Müssele v. Belgium (judgment of 23 November 1983, Series A, No.70, paragraph 37).

[123] For example, the Geneva Convention on Slavery of 25 September 1926, as amended by the New York Protocol of 7 December 1953; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery of 7 September 1956; the ILO Worst Forms of Child Labour Convention (Convention No.182).

Commission of Human Rights regarded it as "having to live and work on another person's property and perform certain services for them, whether paid or unpaid, together with being unable to alter one's condition" "Servitude is thus to be regarded as a particular form of slavery", but without "the ownership features characteristic of slavery".
The definition of THB in the EU Directive on preventing and combating trafficking in human beings and protecting its victims (2011/36/EU)[124] contains a number of additions when compared to the definitions of the UN and the CoE. Article 2 of the Directive defines trafficking in human beings as:

"1. The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
[...]
3. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including forced begging, slavery or practices similar to slavery, servitude or the exploitation of criminal activities, or the removal of organs".

The actions that can form part of THB have been further specified by adding "including the exchange or transfer of control over those persons". The definition also includes additional forms of exploitation, namely forced begging, which according to recital 11 of the preamble "should be understood as a form of forced labour or services as defined in the 1930 ILO Convention No 29 concerning Forced or Compulsory Labour", and the exploitation of criminal activities. The preamble does not contain any further explanation of labour exploitation.

In order to monitor the different actions being taken in the member states with regard to trafficking in human beings, article 19 of the EU Directive 2011/36/EU obliges states to take the necessary measures to establish national rapporteurs or equivalent mechanisms (NREMs). The task of the rapporteur/mechanism is, according to the EU Directive, to carry out assessments of trends in trafficking in human beings and to measure results of anti-trafficking policies. The Directive furthermore obliges the rapporteur/mechanism to report about the research findings. In measuring the results of anti-trafficking actions, the Directive urges member states to ensure that the rapporteur/mechanism gathers statistics in close cooperation with relevant civil society organisations.

Trafficking in human beings is also mentioned in the EU Charter of Fundamental Rights: article 5 of the Charter prohibits slavery, servitude, forced labour and trafficking in human beings.

The ILO Convention No. 29 concerning Forced or Compulsory Labour from 1930 and the definition it contains on forced labour were already mentioned as part of the discussion of the Council of Europe Convention. In 2014, a protocol to the Convention and a recommendation were adopted. The main difference between the ILO Convention No 29 and its protocol and the EU legislation, is the emphasis it places on cooperation with the social partners, i.e. employers and trade unions. The ILO Convention and protocol is binding on all member states, even if they have not ratified it.

[124] EU Directive 2011/36/EU.

Annex 4
Overview of legal instruments

Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw 2005.
http://www.coe.int/t/dghl/monitoring/trafficking/default_en.asp

Council Act 2000/C 197/01
Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, OJ C 197, 12.7.2000, p. 1-2.
http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1450611187001&uri=CELEX:32000F0712(02)

Council Decision 2007/845/JHA
Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime, OJ L 332, p. 102.
http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1446200969987&uri=CELEX:32007D0845

Council Decision 2009/426/JHA
Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime, OJ L 138, 4.6.2009, p. 14-32.
http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1450610122505&uri=CELEX:32009D0426

Council Framework Decision 2002/465/JHA
Council Framework Decision of 13 June 2002 on joint investigation teams, Official Journal L 162 , 20/06/2002 p. 1-3.
http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1450611550640&uri=CELEX:32002F0465

Council Resolution of 26 February 2010 on a Model Agreement for setting up a Joint Investigation Team (JIT), OJ C 70, p. 1.
http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1446201066560&uri=CELEX:32010G0319(01)

Charter of Fundamental Rights of the European Union of the European Parliament, the European Council and the European Commission, OJ 2000 C 364, p. 1.
http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm

EU Directive 96/71/EC
Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, OJ L 18, p. 1.
http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1450613338827&uri=CELEX:31996L0071

EU Directive 2002/90/EC
Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence, OJ 2002 L 328, p. 17.
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32002L0090

EU Directive 2004/81/EC
Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, OJ L 261, p. 19.
http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32004L0081

EU Directive 2009/52/EC
Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0052

EU Directive 2011/36/EU
Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101, p. 1.
https://ec.europa.eu/anti-trafficking/legislation-and-case-law-eu-legislation-criminal-law/directive-201136eu_en

EU Directive 2014/42/EU
Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, OJ L 127, p. 39.
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0042

EU Directive 2014/95/EU
Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0095

EU Regulation (EC) No 593/2008
Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations, OJ L 177, p. 6.
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32008R0593

COM(2014) 221 final
European Commission, *Proposal for a decision of the European Parliament and of the Council on establishing a European Platform to enhance cooperation in the prevention and deterrence of undeclared work, COM(2014) 221 final*, Brussels 2014.
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014PC0221

International Labour Organisation (ILO) Convention concerning Forced or Compulsory Labour, Geneva 1930.
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029

ILO Convention concerning Labour Inspection in Industry and Commerce, Geneva 1947.
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312226

ILO Convention concerning decent work for domestic workers, Geneva 2011.
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:2551460

Vienna Convention on Diplomatic Relations, Vienna 1961.
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=III-3&chapter=3&lang=en

UN Protocol to Prevent, Suppress and Punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organised Crime, Vienna 2000.
https://www.unodc.org/unodc/treaties/CTOC/

Annex 5
List of indicators of THB for labour exploitation
From the "Practical tool for First level identification of victims of human trafficking for labour exploitation"[125]



WHAT ARE THE INDICATORS OF TRAFFICKING FOR LABOUR EXPLOITATION?

This section has been prepared to help you to detect trafficking **by recognizing some signs** of ACTION, MEANS AND LABOUR EXPLOITATION. Not all of them will be present in the case you are dealing with. Remember that you can have more details about these indicators, about the methods you can use to look for information related to them and about the evidence that you can find and collect in the **reference guidelines**. The signs that can be observed while looking at the person are highlighted in orange, while those that can be found while listening to him / her are left unhighlighted. .Please note that the lists below are not exhaustive as signs may be added or modified to reflect the changes in the modus operandi of traffickers.

Once you have gone through the observation phase (if possible) and the discussion with the person, you should be able to fill out some or the entire table presented in annex 1.

PURPOSE : DO YOU FIND SOME OF THE FOLLOWING SIGNS THAT THE PERSON IS A VICTIM OF LABOUR EXPLOITATION?

- The working conditions are in gross violation with labour laws and collective agreements.
- The worker is denied breaks, days off, and free time or works on call.
- The employer cannot show employment contracts, insurances or registers for the Persons.
- The worker doesn't know how much he / she earns.

ACTION : DO YOU FIND SOME OF THE FOLLOWING SIGNS?

RECRUITMENT
- The Person did not know where he / she was going to work.
- The Person paid excessive fees for recruitment.
- The Person has no employment contract, the terms and conditions are poorly defined, or the employment contract is written in a language that the Person does not understand.

TRANSPORTATION, TRANSFER
- The Person did not organise his / her transport or does not know the travel route from the place of origin to destination.
- The Person shows signs of fear of the man or women who accompanies him / her.
- A third person gives the passport back to the Person just before crossing the border.
- Travellers in a group do not appear to know each other.

HARBOURING, RECEIPT
- The Person lives and sleeps at work.
- The sleeping areas are over-crowded, unhealthy and there are no basic hygiene facilities, with limited to privacy or no right to privacy.
- The Person has limited freedom to move in his / her place.

MEANS : DO YOU FIND SOME OF THE FOLLOWING SIGNS?

THREATS
- The Person shows signs of fear and anxiety, especially in the presence of the supervisor, manager of men or women who accompany him / her during transport, transfer or border crossing.
- The Person makes statements that are incoherent or show indoctrination.
- Supervisors, managers, or the men or

[125] EuroTrafGuID 2013.

women who accompany the Person during transport, transfer or border crossing show aggression towards the Person.

USE OF FORCE
- The Person has visible injuries (e.g. bruises, scars, cuts, mouth and teeth injuries, cigarette burns).
- The Person shows signs that he / she is anxious or afraid (e.g. sweating, trembling, difficulty responding to questions directly, avoidance of eye contact for reasons unrelated to culture).

RESTRICTION OF MOVEMENT
- The Person lives and works at the same location.
- There are control mechanisms at the place of work, such as video surveillance, signs warning people not to leave, inaccessible windows or windows with bars, locked doors, etc.

ISOLATION
- The Person does not know his or her location or address.
- The workplace is in a remote location which is difficult to reach by public or private transportation.
- The Person has limited or no access to means of communication (e.g. phone, mail, internet).
- The employer controls contacts with other people or insists on answering questions on behalf of the Person and / or on translating all conversations.

RETENTION OF DOCUMENTS
- The Person does not possess or have access to his / her ID documents (passport, ID card, visa, work or residence permit) or other valuable personal effects (return ticket) and cannot access to them on request.
- Other workers are in the same situation, with no access to their ID Documents.
- Id documents seem to be forged.

RETENTION OF WAGES
- The employer cannot show an employment contract or proof that wages have been paid to the Person, or employment documents and wage records have been altered.
- Payments are irregular and / or frequently delayed.
- The Person does not understand how wages or deductions are calculated or know how much he / she is earning.

DECEPTION
- The actual terms and conditions of work differ from those that were promised orally.
- The Person signed a new employment contract upon arrival at work.

ABUSE OF VULNERABILITY
- The Person is in an irregular administrative situation and does not held residence permit or work permits.
- The Person belongs to a group that has been discriminated against or does not have equal rights in society (e.g. based on sex, refugee / asylum status, ethnicity, disabilities, orphan status, or membership of a minority religious or cultural group).
- The Person has limited education and /or is illiterate or does not know the local language.
- The Person is in a situation where he / she is dependent in multiple ways (e.g. reliant on the employer for accommodation, food, and relatives' jobs or other benefits).
- The Person refers to religious or cultural beliefs with fear.
- The Person refers with fear to religious or cultural beliefs.

DEBT BONDAGE
- The Person must pay excessive fees for recruitment, transportation, accommodation, food, tools or safety equipment that are deducted directly from the Person's wages.
- Repayment terms for wage advances are unclear or manipulated.
- Interest rates for wage advances are unreasonable and may exceed legal limits.
- Parents received a payment in return for their the child to come with the traffickers.

WHAT ARE THE INDICATORS OF TRAFFICKING FOR LABOUR EXPLOITATION?

Annex 6
The barrier model for THB for labour exploitation
From the Handbook of best practices of multidisciplinary cooperation against trafficking in human beings[126]

Model 2:

Barriers to human trafficking for labour exploitation

Barriers	Recruitment	Entry/identity	Residence status	Housing	Work	Financial
	First contacts in source country, false promises, travel instructions, often start of debt bondage because of travel costs and recruitment fee	Visa application with valid or forged passport, sometimes with a fake contract, buying a (flight) ticket, actual transport, border crossing (legally or illegally) into transit or destination country	Legal or illegal, often tourist visa followed by overstay, identity card and temporary residence permit have to be shown in many places as well as social fiscal number	Renting a house that makes it possible to maintain control over the victims or letting them sleep at the workplace (factory or farm) often behind locked doors	Work permit, workplace hidden from view, mislead labour inspectors and municipality, bogus self-employment	Paying out meagre salaries in cash, sloppy or no bookkee-ping at all, fraudulent tax returns
Traffickers core group	The perpetrators can be from the factory or farm where the work is done or from an employment agency or some other intermediary. Deceitful employment agencies can be based either in the source or in the destination country. If the exploitation is committed by a subcontractor down the supply chain, the main company might not be fully aware of this. In a more segmented scenario people smugglers would arrange the travel and exploitation would take place later at the hands of employers taking advantage of the vulnerability of illegal workers. For travel within Europe, visa would not be needed. For citizens of EU countries a work permit would not be required, with temporary exceptions for some countries. This can be circumvented by registering as self-employed.					
Knowing facilitators	Local members of trafficking organisation	Migrant smugglers, passport forgers, visa guarantors	Document forgers, identity fraudsters, people involved in arranging fake marriages	Landlords, slumlords	If the employment agency is the main perpetrator and financial beneficiary, the company where the work is done may be only partially aware of things	Money couriers, money launderers, real estate agents, shell companies with hidden owners, solicitors
Unknowing involvement		Airlines or other transport companies	Embassies that unknowingly grant (Schengen) visa	Landlords, housing associations, centers for asylum seekers	Buyers of the products	Banks, money transfer agents, solicitors
Partners in multidisciplinary approach to prevent and combat THB	National and local authorities in source country as well as community workers, trade unions, NGOs, organisers of awareness raising activities, media etc.	Embassies, immigration services, border guards, cooperation with private sector (airlines)	Immigration services, (aliens) police or border agency, municipal administration/ register	Municipalities, housing and fire prevention inspectors, police, social investigators, housing associations, neighbours	Labour inspectors/ investigators, police, municipality, Chamber of Commerce, trade unions, employers' associations	Tax authorities, fiscal and social investigators, police, cooperation with private sector (banks)
Public prosecutors would normally get involved following initial investigation by police or other investigative agencies						

126 Ministry of Security and Justice 2013.

Annex 7
Guidelines for businesses
From the Guidelines to Prevent Abusive Recruitment, Exploitative Employment and Trafficking of Migrant Workers in the Baltic Sea Region in brief[127]

The Adstringo "Guidelines to Prevent Abusive Recruitment, Exploitative Employment and Trafficking of Migrant Workers" were drawn up as part of a project by the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) together with the Ministry of the Interior of the Republic of Lithuania, the University of Tartu in Estonia and the Council of the Baltic Sea States Task Force against Trafficking in Human Beings (CBSS TF-THB). The guidelines aim to promote decent work and protect fundamental rights at work, strengthen enforcement of existing labour standards, especially in sectors prone to exploitation, foster a level playing field for ethical recruiters and employers and promote strategic partnerships among public authorities, businesses, trade unions and NGOs in the prevention of abuse and exploitation at national, regional and international level.

The short version of these guidelines, "The Guidelines – In Brief", functions as a quick overview and checklist on how to best prevent exploitation of migrant workers. The following pages have been taken from this short version. The full report and the complete brief version of the report are available online on http://www.heuni.fi/en/index/researchareas/humantrafficking/adstringo-addressingtrafficking inhumanbeingsforlabourexploitationthroughimprovedpartnershipsenhanceddiagnosticsandintensified organisationalapproaches.html as well as www.cbss.org/tfthb.

[127] HEUNI 2014.

GUIDELINES FOR BUSINESSES:
DUE DILIGENCE IN ORDER TO PREVENT ABUSE AND EXPLOITATION IN RECRUITMENT AND EMPLOYMENT OF MIGRANT WORKERS

Businesses are to demonstrate that they exercise due diligence to "identify, prevent, mitigate and account for how they address their impacts on human rights". More specifically, Private Employment Agencies (PrEAs) and other businesses that recruit, hire or employ migrant workers especially in sectors prone to exploitation in the Baltic Sea region are encouraged to:

→ **Build knowledge of the risks of abuse, exploitation and trafficking for forced labour** of migrant workers;

→ **Commit to prevent trafficking for forced labour, abuse and exploitation in all their business activity,** including in their supply chain;

→ Establish **operational level complaint mechanisms to respond to labour abuses of migrant workers,** and make them easily, safely and confidentially accessible to migrant workers so that they understand the process, are not afraid of complaining, and are confident of receiving an effective and timely response;

→ Establish **independent monitoring, verification and certification mechanisms** to document compliance and implementation of **codes of conduct or self-established ethical standards** and commit to share data with law enforcement on suspected exploitation.

"Businesses are expected not only to declare respect of human rights but also to know and show how they ensure such commitment wherever they operate."

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DEVELOP BUSINESS SELF-REGULATION ON ETHICAL STANDARDS FOR RECRUITMENT AND EMPLOYMENT OF MIGRANT WORKERS

➔ Establish clear recruitment policies and ensure that **neither the PrEA nor its sub-agents or the labour user charge fees or costs to job-seekers for their recruitment and placement.** Such costs or fees shall be the responsibility of the future employer.

➔ Establish **systems to verify, demonstrate and document** that costs of recruitment were not recovered, directly or indirectly, from workers through salary deductions, reductions of other benefits or other type of charges or changes in the terms and conditions of work.

➔ Ensure **respect of job seekers and workers privacy** when processing personal data collected about them.

➔ **Prohibit the withholding of a worker's passport or other identity document, or driving license or bankcard** by the PrEA and/or its agents and/or the labour user.

➔ **Check user enterprise** reputation and ability to pay wages.

➔ Ensure that the work **contract** is provided to the worker in **written** format, in a language that the person understands; a copy of the contract should be available for the worker prior to deployment.

➔ Ensure that the **contract includes** information about: wage level, payment modalities, working hours, overtime, frequency of rest days, indemnities and bonuses if any, safety of working conditions, responsibility for occupational health and safety, insurance, availability and accessibility of grievance mechanisms.

➔ Ensure that a worker can terminate a contract at any time by giving **reasonable notice and without penalty,** such as withholding of wages or having to pay a fee for early termination of work.

➔ Ensure that the recruiting process and the contract of employment of migrant workers are in line with the principle of **equality of treatment and opportunity,** regardless of whether they are in a regular or irregular situations.

➔ Ensure that workers recruited and/or employed by the PrEA retain right to **freedom of association** and to **collective bargaining.**

➔ **Train middle management** and staff supervisors so that they can spot indications of hidden third party exploitation and trafficking.

➔ Conduct **on-site random visits to labour users** after the deployment of workers to check that there are no abuses.

PROMOTE SELF-REGULATION OF BUSINESSES IN ORDER TO PREVENT ABUSE AND EXPLOITATION IN THE WORKPLACE AND IN THE LABOUR SUPPLY CHAIN

BUSINESSES SHOULD:

➔ Commit to **carefully screen** their **sub-contractors and partners** with whom they operate in the recruitment of migrant workers. Screening should aim at verifying that their partners do not engage in abusive and fraudulent practices or charge recruitment costs to job seekers.

➔ Commit to **respect labour standards** and not to interfere with worker's freedom to choose and join a union.

➔ Establish **proactive policies to map out risks of trafficking in their supply chain**. To mitigate risks of labour exploitation, businesses should consider limiting their recourse to labour sub-contractors to a minimum of well-trusted and licensed partners.

➔ Consider introducing clauses in their contracts with companies in their supply chain that foresee **contract termination in case of detection of abusive and exploitative practices of workers.**

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Annex 8

Seven steps for dealing with a potential victim of THB for labour exploitation

From the "Practical tool for First level identification of victims of human trafficking for labour exploitation"[128]

WHAT SHOULD YOU DO AND HOW?



WHAT SHOULD YOU DO AND HOW?

Your role is limited to **recognising the signs** which may indicate that a person is a victim of human trafficking any if this is the case, **to inform the competent authorities and offer the person to refer him / her for formal identification and support.**

1 ENSURE SAFETY AND BASIC NEEDS

- Make sure that the situation is safe for the person and for you. If not (if, for example, there is a manager listening to you or threatening you or the person), you should leave the place **AND call the police for help.**
- Offer the person shelter, food, something to drink, rest or access to other basic needs if necessary.

2 ASSESS IF THE PERSON A CHILD

- Assess if the person is a child (below 18 years old) as the procedures to follow in this case are specific. Keep in mind that some youths below 18 years old may make false claims about being adults.
- If there is any doubt as to whether the person is a child, then you must presume that he / she is and proceed accordingly. The correct age will be formally determined later in the process by the specialised authorities.
- If he / she is (or probably is) a child, then as soon as you have enough reasons to believe that the child was exploited, in one way or the other, the first thing to do is to call the **unit in charge of (or competent for) child protection**. This unit usually uses a multidisciplinary approach, with psychologists and medical doctors being involved in the identification process. It is their responsibility to go further into the identification of trafficking. Meanwhile, it is important to make the child feel safe and secure, to listen to his / her fears. The specialised unit will decide whether and when the parents/guardians should be informed.

3 MAKE SURE YOU UNDERSTAND EACH OTHER

Using signs or basic language, you may have been able to communicate enough to offer protection and assess if the person was a child. But in order to go further in the detection of trafficking, you need to make sure that the person understands the language you speak. If not, you should offer to call for an interpreter whose name

12 Practical tool First level identification of victims of human trafficking for labour exploitation

[128] EuroTrafGuID 2013.

or profile should be accepted by you and the possible victim. Do not agree to the use of acquaintances, friends or "colleagues" from the same group as the possible victim, as they may be related to the trafficker.

4 CREATE CONFIDENCE, EXPLAIN WHO YOU ARE

- Provide the possible victim with basic information including who you are, for which organization you work, and what the objective of the discussion is.
- **Ask for his / her consent** to start the discussion, tell him / her that she can interrupt or ask more details at any moment of time. Inform him / her that his / her identity will be disclosed only with his / her consent to organisations which need it to organise the support they will provide.
- Ask for his / her consent to take notes during the discussion if you need to do so and explain why.
- While talking and listening to the person, always keep in mind that you should follow a **human-rights based approach**, and that trafficked persons are holders of rights.

5 LISTEN, OBSERVE, ASK QUESTIONS

Your role is **to observe the situation and listen to the person** in order to get enough information for you to decide if you have detected a possible victim of trafficking. If possible, you are also invited to document the signs of trafficking that you notice by collecting available evidence.

In order to facilitate the detection, the p. 18-19 contains a list of signs that may indicate that the person may be a victim of trafficking.

Read the lists of signs, which are examples of what can indicate that the person is a victim of trafficking. Some can be observed while looking at the person, while others can be found by listening to him / her. Take the annex with you, and as soon as you recognize a sign, tick it off in the annex form (p. 21). This will help you to decide whether or not you want to refer the person to the competent authority.

At the end of the discussion, if you come to the conclusion that the person may be a victim of trafficking, you **need to offer to refer him / her to a specialised body** which will provide support and protection for the short, medium and possibly long term. The next paragraph helps you to explain what will happen once the person is referred to the specialised authority in charge of the formal identification. If you do not feel confident in explaining the next steps involved in formal identification to the possible victim, just tell him / her that as soon as he / she will be in contact with the specialised authority, a dedicated officer will explain him / her the whole process to him / her and will be able to answer to his / her questions.

WHAT SHOULD YOU DO AND HOW?

6 IF REQUIRED, EXPLAIN WHAT THE DIFFERENT STEPS OF IDENTIFICATION OF VICTIMS OF TRAFFICKING ARE

The possible victim may ask you what will happen once referred to the competent authority in charge of identifying victims of trafficking. The information below is for you to be prepared to answer to his / her questions, if you feel able to do so.

If the person agrees to be referred to the competent authority (National Referral Mechanism), then he / she will be interviewed by specialists in charge of identifying victims of trafficking. Once identified as a presumed victim of trafficking, the person shall be treated as a victim and will benefit from the assistance prescribed in national law for victims of trafficking until some new evidence comes to light to contradict this identification.

For adults, once identified as a presumed victim, and if he / she gives his / her consent, the person will :

- Be offered a recovery and reflection period of a minimum of 30days which entitles a victim with no legal residency the right to remain in the country, recover from his / her ordeal and make an informed decision as to whether he / she wishes to cooperate with competent authorities to prosecute the trafficker
- Be protected from previous exploiters/traffickers by security measures decided jointly on with the victim following a risk assessment
- Be offered protection for his / her physical safety and well-being, including some solutions for safe housing, if needed
- Be offered the services of an interpreter
- Be granted with free legal aid
- Be offered medical and pharmaceutical assistance if needed
- Be offered psycho-social services and care

Later on, this authority or other competent authorities will examine his / her case more in detail in order to grant the formal status of victim of trafficking (or not). This formal status opens up the right to :

- A long-term residence / work permit for third-country victims without a legal right of residence
- Access to compensation
- Benefit from some training/education offers for the youngest ones
- Regular medical-pharmaceutical care
- Victims who so wish , they can be provided with safe and dignified repatriation to their country of origin or sometimes to another country

3. In some EU countries reflection period is three months but the minimum should be at least thirty days (according to CoE Convention on Action against THB)

If the presumed victim is a child, he/she will benefit from specific measures as soon as he/she is identified as a presumed victim. These include:

- Special measures taken by competent authorities to determine identity and nationality of the child, and whether he/she was accompanied or not
- The provision of legal representation
- Access to compensation
- The need for the competent authorities to make all possible efforts to locate the minor's family
- Access to schools or other forms of education
- The possibility of voluntary return, if the minor so wishes and following a best interest determination by the competent child protection authorities

7 TAKE ACTION

At the end of your discussion with the person, there are 4 follow-up possibilities.

A **The person is a child:** the first thing to do is to call the **unit in charge of (or competent for) child protection.**

The person is an adult:

B You think that **he/she may be a victim of trafficking**, and he/she has agreed to be referred to the specialised authority: you need to call the authority and refer the person to them.

C You think that **he/she may be a victim of trafficking** but the person **does not want to be referred** to the specialised authority, at least for the time being. You must invite the person to think about it and to provide him/her with a list of contact details in case he/she changes his/her mind and details of organisations that can provide support for specific topics, such as check-ups, or legal aid. **However, it is compulsory in some countries to inform the authorities when you witness a crime, irrespective of the victim's consent. If it is the case, you have to inform the authorities.**

D **You don't think the person is a victim** of trafficking but nevertheless needs some support. Provide him/her with details of specific support organizations and a leaflet with information on trafficking.

WHAT SHOULD YOU DO AND HOW?

TeamWork!

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AND NATIONAL SECURITY